



# The Risk Resource

*A publication of the F&P Risk Control Department.*

## OSHA REVISES REPORTING RULE FOR WORKER INJURIES

*Courtesy of Insurance Journal*

The U.S. Occupational Safety and Health Administration (OSHA) has issued a final rule requiring employers to notify OSHA when an employee is killed on the job or suffers a work-related hospitalization, amputation or loss of an eye.

**Under the revised severe injury rule, employers will be required to notify OSHA of work-related fatalities within eight hours, and work-related in-patient hospitalizations, amputations or losses of an eye within 24 hours.**

Previously, OSHA’s regulations required an employer to report only work-related fatalities and in-patient hospitalizations of three or more employees. Reporting single hospitalizations, amputations or loss of an eye was not required under the previous rule.

**The rule, which also updates the list of employers partially exempt from OSHA record-keeping requirements, will go into effect on Jan. 1, 2015, for workplaces under federal OSHA jurisdiction.** The new rule maintains the exemption for any employer with 10 or fewer employees, regardless of their industry classification, from the requirement to routinely keep records of worker injuries and illnesses.

The announcement follows preliminary results from the Bureau of Labor Statistics’ 2013 National Census of Fatal Occupational Injuries.

“Workplace injuries and fatalities are absolutely preventable, and these new requirements will help OSHA focus its resources and hold employers accountable for preventing them,” said

U.S. Secretary of Labor Thomas E. Perez, citing Bureau of Labor Statistics that 4,405 workers were killed on the job in 2013.

All employers covered by the Occupational Safety and Health Act, even those exempt from maintaining injury and illness records, are required to comply with OSHA’s new severe injury and illness reporting requirements. To assist employers, OSHA is developing a web portal for employers to report incidents electronically, in addition to the phone reporting options.

“Hospitalizations and amputations are sentinel events, indicating that serious hazards are likely to be present at a workplace and that an intervention is warranted to protect the other workers at the establishment,” said Dr. David Michaels, assistant secretary of labor for occupational safety and health.

In addition to the new reporting requirements, OSHA has also updated the [list of industries](#) that, due to relatively low occupational injury and illness rates, are exempt from the requirement to routinely keep injury and illness records. The previous list of exempt industries was based on the old Standard Industrial Classification system and the new rule uses the North American Industry Classification System to classify establishments by industry. The new list is based on updated injury and illness data from the Bureau of Labor Statistics. Any employer with 10 or fewer employees, regardless of their industry classification, is exempt from the record-keeping rule.

### **OSHA Fact Sheets and Helpful Links:**

Updates to Rule:

<https://www.osha.gov/recordkeeping2014/OSHA3744.pdf>

Who is Required and Who is Exempt:

<https://www.osha.gov/recordkeeping2014/OSHA3746.pdf>

Reporting Fatalities and Severe Injuries:

<https://www.osha.gov/recordkeeping2014/OSHA3745.pdf>

New list of industries exempt from OSHA recordkeeping requirements:

<https://www.osha.gov/recordkeeping/ppt1/RK1exempttable.html>

List of newly covered industries:

[https://www.osha.gov/recordkeeping2014/reporting\\_industries.html](https://www.osha.gov/recordkeeping2014/reporting_industries.html)

Assistance for newly covered:

<https://www.osha.gov/recordkeeping/tutorial.html>

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## REGISTER NOW! 17th Annual Flood and Peterson Risk Control Symposium

Friday, October 3, 2014 from 7:30 am—3:00 pm  
Embassy Suites Hotel, Loveland

Join us for an information packed day! The event includes a keynote speaker, breakout sessions (Safety, Claims, Benefits/401K, Business Management), exhibitors, networking and giveaways.

Below is a link to the agenda, presentation descriptions, speakers bios, and a link to register for the event.

### *Symposium Agenda:*

<http://www.floodpeterson.com/documents/FPSymposiumAgenda2014.pdf>

### *Presentation Descriptions – Please choose the sessions you plan to attend:*

<http://www.floodpeterson.com/documents/FPSymposiumPresentationDescriptions2014.pdf>

### *Speaker Bios:*

<http://www.floodpeterson.com/documents/FPSymposiumSpeakerBios2014.pdf>

### *Link to register to attend the Symposium (please register by September 25th)*

<http://events.constantcontact.com/register/event?llr=g5nzojab&oeidk=a07e9oodqh4d8b10509>



## OSHA RELEASES NEW RESOURCES FOR CHEMICAL SAFETY

*Courtesy of ASSE*

Every year, tens of thousands of workers become sick or die from exposure to hazardous chemicals on the job. OSHA has introduced two resources to help employers protect workers against these exposures.

The first is an online tool kit ([www.osha.gov/dsg/safer\\_chemicals/index.html](http://www.osha.gov/dsg/safer_chemicals/index.html)) to help employers and workers identify hazardous chemicals and transition to using safer chemicals. The kit outlines a seven-step process for finding, comparing and selecting alternatives to dangerous chemicals. It offers in-depth explanations for each step, provides examples and additional resources, including corporate success stories and a short introductory video featuring OSHA Administrator David Michaels.

The second resource, the Annotated Permissible Exposure Limits, or annotated PEL tables, enables employers to adopt newer, more protective workplace exposure limits on a voluntary basis. Although companies must still adhere to OSHA's mandatory PELs, companies can adopt stricter exposure limits to ensure greater protection.

"There is no question that many of OSHA's chemical standards are not adequately protective," Michaels says. "I advise employers who want to ensure that their workplaces are safe to utilize the occupational exposure limits on these annotated tables, since simply complying with OSHA's antiquated PELs will not guarantee that workers will be safe."

The annotated PEL tables provide a side-by-side comparison of OSHA PELs for general industry to the recommended exposure limits of the California Division of Occupational Safety and Health, NIOSH and American Conference of Governmental Industrial Hygienists. This resource offers easy accessibility to up-to-

-date workplace exposure limits; it is available at [www.osha.gov/dsg/annotated-pels/index.html](http://www.osha.gov/dsg/annotated-pels/index.html).

## OSHA ANNOUNCES TOP 10 MOST-CITED VIOLATIONS FOR FY 2014

*Courtesy of Safety+Health*

San Diego – OSHA, together with Safety+Health magazine, on Sept. 16 unveiled the agency's Top 10 most-cited violations for fiscal year 2014 during the NSC Congress and Expo.

Patrick Kapust, deputy director of OSHA's Directorate of Enforcement Programs, and Kyle W. Morrison, S+H's senior associate editor, announced OSHA's Top 10 list in front of a crowd gathered on the Expo Floor.

For the fourth year in a row, OSHA's Fall Protection Standard ([1926.501](http://www.osha-slc.gov/1926.501)) is the agency's most frequently cited violation.

The entire list is as follows:

1. Fall Protection in Construction (1926.501)
2. Hazard Communication (1910.1200)
3. Scaffolding in Construction (1926.451)
4. Respiratory Protection (1910.134)
5. Lockout/Tagout (1910.147)
6. Powered Industrial Trucks (1910.178)
7. Electrical – Wiring Methods (1910.305)
8. Ladders in Construction (1926.1053)
9. Machine Guarding (1910.212)
10. Electrical – General Requirements (1910.303)

The data is preliminary. S+H will publish the finalized data, additional Top 10 details and an exclusive interview with Kapust in its December issue.



## CRANE OPERATORS NEED TO BE CERTIFIED BY NOVEMBER TO BE IN COMPLIANCE WITH OSHA RULES

*Courtesy of Digital Journal*

*Although OSHA Stakeholders have voted to extend the final deadline in four different meetings, the deadline has not been officially extended by OSHA as of yet, say the experts at Crane Inspection & Certification Bureau. As specified in the ruling (OSHA 29 CFR 1926.1427) non-governmental and non-military employers must ensure that equipment covered by 29CFR Subpart CC (machinery with load limits of 2,000 pounds or more) is only operated by an individual who is qualified or certified to operator the equipment in accordance with the final rule before November 10, 2014.*

**O**SHA issued a final standard on requirements for cranes and derricks in construction work on August 9, 2010, requiring crane operators in construction to meet one of four qualification/certification options by November 10, 2014. After OSHA issued the standard, a number of parties raised

concerns about the requirements, and OSHA held several stakeholder meetings. Although OSHA has proposed to extend the deadline for three more years, it has not affirmed that the date will definitely be extended, said [Crane Inspection & Certification Bureau \(CICB\)](http://www.cicb.com). Read more about the crane operator certification deadline on OSHA's website [https://www.osha.gov/cranes-derricks/extcertdate\\_FAQ.html](https://www.osha.gov/cranes-derricks/extcertdate_FAQ.html).

Effective November 2010, OSHA required that (1) the employer must ensure that operators of cranes covered by the standard are competent to safely operate the equipment; and (2) when an employee assigned to operate machinery does not have the required knowledge or ability to operate the equipment safely, the employer must train that employee prior to operating the equipment and ensure that each operator is evaluated to confirm that he/she understands the information provided in the training. "Along with the requirements that went into effect in 2010, Crane Operators also need to be certified by a nationally accredited certifying agency by November 10, 2014" said Billy Cook, Sales and Marketing Manager for CICB. "The NCCCO Crane Operator Certification by the National Commission for the Certification of Crane Operators is recognized as the best in the industry, which is proven to be the gold standard for its criteria for written and practical examinations."

Given that there are hundreds of unique construction applications, OSHA has been swamped with requests for clarification of the rules and the answers are leaving people asking more questions. "Don't let the politics get in the way of safety", said Camille Singletary of CICB. "Crane Operator Certification gives operators a credential and offers employers important information about a crane operator's knowledge, skill and ability." Since 1969, years before the publishing of the current OSHA regulation, CICB has been a leader in providing a valuable service to the industry - training and testing the knowledge, skill and ability of crane

operators. Since the inception of the NCCCO in 1996, CICB has been providing NCCCO Crane Operator preparatory training along with the NCCCO exams to operators from all 50 States, ensuring that employees working with cranes are skilled and knowledgeable.

With the demand for quality Crane Operator Certification, CICB has expanded its programs to include monthly preparatory training programs for crane operators along with NCCCO Crane Operator testing. Rigger, Signal Person, and Crane Inspector programs also available.

CICB, headquartered in Orlando FL since 1969 with a second training facility in Houston TX, offers scheduled training programs at our facilities and at various locations across the U.S. or customized on-site training at your facility. CICB



instructors have been awarded the prestigious Top Trainer Award in 2013, 2012, 2011 and 2009.



## TAKE THE STEPS TO PREVENT WORKPLACE INJURIES BEFORE THEY HAPPEN

*Courtesy of EHS Today*

**Q**uestion: Which of the following is NOT a myth?

- Bigfoot lives in the Pacific Northwest.
- The Loch Ness monster inhabits Scotland.
- Employers can control their workers' compensation costs.
- Employee wellness affects the cost of your workers' compensation insurance.

OK, so this is a trick question. Both 3 and 4 are correct. Sadly, if you poll a large number of business owners (particularly in the construction industries), the majority will swear they saw Bigfoot last time they vacationed in Oregon.



Why do most employers believe there absolutely is no way to control their workers' compensation costs, that they are destined to stand by helplessly while it spirals out of control, costing them thousands of dollars in premiums?

Workers' compensation creates a level of frustration because most employers don't understand it, because the person who explained it to them – often their insurance agent – doesn't understand it either. I would not have a hard time believing that 95 percent of property and casualty insurance agents don't understand workers' compensation, and they sell this insurance every day. This is why employers often spread misinformation like, "I don't have any control over my workers' comp because my home state sets the rules, sets the rates and determines everything."

That thinking is about as far from the truth as you can get. Yet they have been hearing it from their insurance agents since they started buying workers' compensation when they started out with five employees in a 2,000-square-foot building. Now they have 100 employees and they still think of it the same way. And it's incorrect.

### **What Employers Can Control**

You can't control a tornado hitting your manufacturing plant, but you can control employees' compliance with corporate rules regarding the wearing of personal protective equipment; that employees are not lifting boxes beyond their physical capabilities; and that they are not walking on floors slipperier than an ice skating rink. You can, for the most part, control your workers' compensation world by creating a safe environment populated with healthy workers. And that's where a targeted wellness program should be an integral part of any workplace environment, and a major step in preventing workplace injuries.

Wellness is a relatively new concept to most employers, many of whom still think of it primarily as a feature of their health insurance policy. They don't think of the impact it has on their workers'

compensation costs, mostly because they don't perceive it for what it truly is: an employee benefit.

Because workers' compensation is not thought of as an employee benefit, and wellness programs are instituted with health insurance-related goals in mind, most employers do not consider the impact that a wellness program can have on their workers' compensation premiums. A wellness program can reduce both the frequency of injuries and the severity of those injuries. The reason is quite simple: Chronically ill or obese employees may suffer more injuries and take longer to return to work when injured.

Health insurance is about helping employees return to a situation of wholeness in the event of illness, injury or disability. Workers' compensation functions the same way. You have an employee who is injured on the job and it's not the health insurance that attempts to make them whole – it's the workers' compensation insurance.

No two ways around it, a healthier workforce is going to be less prone to injury and, if workers are injured, they're going to be back to work faster because their recovery times are going to be quicker. They are not going to have additional issues related to being overweight or have some type of an addiction, whether it be to prescription or non-prescription medications, alcohol or cigarettes. With a wellness plan in place, these factors don't come into play as much.

Furthermore, an employer really doesn't know if his workforce is well except for the obvious warning signs, such as if somebody smokes or is grossly overweight. But if they suffer from high blood pressure or diabetes, or maybe have musculoskeletal problems like a back that goes out at the drop of a hat (or simply by bending down to pick up a hat), the employer doesn't really know the potential danger unless there is a wellness program in place to put those missing pieces of the workforce puzzle together for them.

### **Why Resistance Exists**

So if incorporating wellness into the workplace culture of a company obviously is important, then why do so many business owners resist it? First, there is the misconception that a program is expensive to implement. This myth exists because their insurance provider has not dispelled it. Secondly, they also believe that employees won't participate because they believe their employees don't want to be told what to do, which means the benefit has never been clearly explained to employees.

Another important step on the wellness ladder is pre-employment testing. To some employers, pre-employment testing is nothing more than filling out a form and checking off some boxes. But what it's really all about is doing everything possible to avoid hiring a workers' compensation claim. The pre-employment step should begin with a company aligning itself with an occupational health clinic, or at the very least, a physician familiar with the type of occupational injuries adherent to a particular industry.

This is vital because that medical professional actually will review the employee's application and know exactly what type of job he is applying for and what the physical limitations are. This isn't a big expense, particularly in lieu of what the potential impact could be if that employee is off work after suffering an injury. Most employers already drug-test potential employees, so this is just the next logical step. What good is it to hire someone just because they test negative for drug use, but are dangerously obese?

A healthier workforce means fewer injuries and less time off the job should an injury occur. Very often, you can make a positive impact on the injury management side; we found that employers who are willing to take an active role in getting their employees whole as quickly as possible experience much greater positive results in managing their overall workers' compensation costs. And when that employer actively is engaged in helping that employee get back on the job, even

in a limited capacity, the employee sees that the company cares about his or her well-being. This compels the employee to want to get back to work faster, as opposed to sitting at home all day watching commercials for lawyers telling them to “get what’s coming to them.” It’s amazing how human nature works.

### The Experience Modification Factor

Both scenarios bring the experience modification factor (EMF) into play. When a company’s EMF is in the high range (anything over 1.0), costs go up and potential revenue goes down because many companies that are part of a bidding process on certain projects find they are shut out from the process because of their EMFs. When our firm works with a company, we address this potential danger by obtaining a copy of the company’s rating worksheet – either from the company or from the rating bureau – and reviewing the paperwork. This way, the analysis shows the company what affects its claims. The analysis either validates it as correct or, more often than not, we assist them in reversing it.

For example, a large construction firm located in northern Indiana was having issues keeping its experience rating below .90, a threshold that was required by several general contractors for whom the firm performs a large amount of work. This resulted in lost contract bids.

The company already had a wellness program in place for health insurance reasons but participation was weak. We put moderate incentives in place and participation quickly increased. The result was a decreasing impact on the company’s workers’ compensation claims, which put it back in the bidding process.

Another case in point is a manufacturing company with over 150 employees that was experiencing a high number of workers’ compensation claims that resulted in lost time. Several initiatives were put in place to help reduce the lost-time incidents. One of the initiatives was a wellness program. As a result, this

particular employer has experienced a 70 percent reduction in lost-time injuries from 2011 to 2012.

Wellness programs in relation to workers’ compensation are a relatively new idea. As with any new idea, it takes time to measure the impact, but it takes longer with workers’ compensation because of the method of calculating the experience rating. Employers should consider instituting wellness programs sooner rather than later. This way, they can begin to experience the benefits – sooner rather than later.



## REPORTING NEAR MISSES

### Why are they important, and how can safety pros get employees involved?

*Courtesy of Safety+Health*

**A**n employee walks down the hall, stepping over an extension cord stretched across his path. He turns a corner and nearly collides with another worker. To avoid the collision, he steps to the side, spilling coffee onto the floor and inadvertently jostling a shelving unit, on which a tool placed close to the edge of the top shelf falls and hits the ground.

No one is hurt in this fictional scenario. However, the employees in it experience multiple near-miss situations – any one of which could have led to a serious injury.

Some people may be tempted to write off near misses as “no harm, no foul” situations. But safety professionals such as Jeff Ruebesam say employers who track near misses, determine how and why they occurred, and take corrective action can prevent similar – or more

serious – incidents from happening in the future.

“We don’t look at what happened; we look at what could have happened,” said Ruebesam, corporate vice president of health, safety and environment at Irving, TX-based engineering company Fluor.

### What and why

Not all safety professionals agree on what constitutes a near miss. Among the definitions:

- Something physically happening (an object falls but narrowly avoids hitting a worker)
- A hazardous condition in which no physical objects are moving (an object rests on the edge of a scaffold but does not fall)

A [fact sheet](#) from OSHA and the National Safety Council defines a near miss as an “unplanned event that did not result in injury, illness or damage – but had the potential to do so.” The fact sheet stresses that although near misses cause no immediate harm, they can precede events in which a loss or injury could occur. Employers that encourage the reporting of near misses gain an opportunity to prevent future incidents.

“It’s a great tool,” Michael Crowl said. Crowl is the director of environmental, health and safety at PIKA International, an environmental engineering and remediation services firm based in Stafford, TX. “A near miss is a leading indicator to an accident that, if scrutinized and used correctly, can prevent injuries and damages.”

### Report and react

Collecting near-miss reports helps create a culture that seeks to identify and control hazards, which will reduce risks and the potential for harm, OSHA states. But a well-run program goes beyond the collection of reports.

Ruebesam outlined three key elements of a successful near-miss program:

- **Communication.** The program, and its importance, must be well-communicated to employees.

Workers also need assurance that the information being collected will be used to learn and improve – not to punish. Ruebesam said. “It’s really overcoming that initial fear factor” of providing bad news to management, he added.

- **Ease of Use.** If the process for reporting near misses is complicated, or employees have to fill out too many forms or go to a certain area to file near-miss reports, the process will not be used.
- **Action.** Employers must provide feedback about actions taken in response to reported near misses.

Crowl agreed. “You must not take a near miss lightly,” he said. “You must carefully investigate it, determine the root causes and implement appropriate controls accordingly.”

At Fluor, near misses are ranked by potential severity. If it could have resulted in an injury or death, a full investigation is conducted. If the near miss creates a condition that is less serious – such as a trip hazard due to an electric cord – the hazard is abated and the risk is communicated to everyone.

At PIKA, lessons learned from near misses are shared with employees through various platforms, including at company meetings and individual project sites. Sometimes, the near misses are communicated by the president and CEO.

A recent email from PIKA’s president and CEO described an incident in which a container used for discarded cigarettes was smoldering. To prevent this from happening again, workers were advised to properly extinguish cigarettes in the sand provided in the containers, and keep combustibles and other debris out of the containers. Additionally, the company updated the design of the containers.

“The intent is to learn the lesson once – at a near-miss level – implement appropriate controls and then share it amongst our projects to prevent similar accident potentials from happening,” Crowl said.

### **Employee involvement**

Employee participation in any near-miss program is vital, Ruebesam said. “It’s employees themselves who witness these things,” he added.

Workers should be trained on how to properly identify and recognize potential hazards. To help make it easy for employees to submit near misses and ensure good data, consider allowing them to turn in near-miss reports anonymously, Ruebesam suggested.

“If we require them to put their name on it, some of the information we would otherwise get wouldn’t happen,” he said.

Similarly, avoid naming people who may have contributed to the near miss. At PIKA, individuals involved in near misses are not openly identified.

“We’re doing our best to keep the focus on lessons learned and what not to do, rather than focusing on who did wrong and assigning blame,” Crowl said. “As soon as we start bringing it to the ‘blame game,’ then we’re going to lose the benefits brought to PIKA from the lessons learned.”

To get employees in the habit of turning in near-miss data, employers may be tempted to set quotas. But Ruebesam advises against this. Although quotas may be beneficial for establishing expectations when kicking off a new reporting program, he said, continuing these requirements could negatively affect the quality of the information employers receive.

“If people look at it as an obligatory quota thing, they might just get it out of the way right away,” Ruebesam said, cautioning that workers who have met their quota may ignore subsequent – and potentially more dangerous – near misses.

Another way to encourage reporting is to offer incentives to workers who report hazards. The fact sheet from OSHA and the National Safety Council states that this type of incentive – as opposed to

those that offer rewards for low or zero injury rates – can encourage a reporting culture.

Additionally, safety pros may find more support from employees when investigating a near miss than when investigating an incident. “Many times, I’ve found people are much more open to make a positive team contribution towards the prevention of an accident through the discussion of a near miss than if an accident has already occurred,” Crowl said. “People seem more willing to talk than when something has happened.”

### **Ensuring success**

Organizations that implement near-miss programs credit them with improving safety. PIKA, a company with about 130 employees, has been running its current near-miss program for nearly two years. After the first full year of the program, the company’s OSHA recordable number fell from 4 to 1, tying an all-time low for the company. The total incident rate dropped from 3.62 to 0.817 – in just one year.

Although Crowl attributes some of the success to a newly implemented job safety analysis process, he believes the near-miss program played a big role.

But success is dependent on the support of all employees. “If it’s not supported by all levels of the organization and positively reinforced at all levels, then it’s not going to be effective. The success of our program is a direct reflection of our entire team’s commitment to safety,” Crowl said.

Ruebesam agreed. Employees want to know their employer is serious about the program, so management needs to work hard and be persistent in promoting the value of near misses, he said.

“You have to demonstrate over time you’re committed to it,” Ruebesam said. “If you can do that, you’ll have a better program.”





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## CONSIDER EARTHQUAKE LOSS CONTROL MEASURES

*Courtesy of International Risk Management Institute*

**S**tates in which hydraulic fracking is occurring have seen a dramatic rise in earthquake incidents, raising concerns that this drilling method could be to blame. For example, there is a tremendous amount of fracking activity in Oklahoma. The Sooner State has experienced almost 250 small-to-medium earthquakes so far this year, according to the US Geological Survey.

For people in earthquake-prone areas, earthquake insurance is a smart option. But another area of focus should be in loss control. Here are some risk control tips (authored by the City of Los Angeles Department of Building and Safety) for you to pass on to your clients facing this loss exposure.

- The foundation, a common area of structural weakness, needs to be thoroughly examined for weaknesses. When concrete foundations are crumbly or porous, they lack the strength to resist earthquakes. Unreinforced brick or stone masonry may need to be strengthened or replaced. An engineer is required by most communities to design these types of repairs. Signs of insect damage and dry rot in the wood need to be checked. Hiring a structural pest control expert and repairing water leaks may be necessary.
- Older homes in earthquake-prone areas may not be bolted to their foundations. Anchor bolts can be installed by capable home owners relatively inexpensively with the proper knowledge and tools. Otherwise, a foundation contractor should perform this task.
- Bracing materials within the foundation should also be inspected. Weak bracing materials (e.g., cement plaster or wood siding) may have been used in the construction process. Stronger bracing materials such as plywood are necessary to support the cripple wall. (The cripple wall is the short wall that connects the foundation to the first floor of the house and encloses the crawl space.)
- For homes built on a slope or even a slight grade, extra strengthening may be necessary.

Experts indicate that retrofitting most single-family homes costs between \$3,500 and \$7,000. Home owners who perform some of this work themselves pay less.

Studies show that properly strengthened homes are safer to live in and easier to sell. A study of the aftermath of the Northridge earthquake of 1994, which caused between \$13 billion and \$20 billion in property damage, indicated that strengthened homes stayed on their foundations in the same neighborhoods where unstrengthened homes failed to do so.



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**About F&P's Risk Resource**

**The Risk Resource** is published quarterly by Flood and Peterson and is committed to providing current information to assist our clients in achieving their risk control goals. If you have any questions, or suggestions, regarding this newsletter please contact the

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