

News You Can Use



Because You're Different

WORKERS' COMPENSATION

RATING BUREAU RECOMMENDS 11.2% RATE HIKE

THE GOVERNING committee of California's workers' compensation rate-making agency on Apr. 16 voted to recommend that the advisory benchmark rate for policies incepting on or after Sept. 1, 2025, should increase an average of 11.2% across all class codes.

The news was a surprise considering that workers' comp rates have been on a downward trend for more than a decade.

The Workers' Compensation Insurance Rating Bureau has forwarded the recommendation to the Department of Insurance, which has rejected its rate hike requests five years in a row. For example, last year's 0.9% rate hike request was rejected in favor of a 2.1% reduction.

Cost drivers

The rate hike request is largely the result of several factors, according to the Rating Bureau:

Rapidly rising medical costs. The average medical costs per claim rose 12% in 2024 from the year prior. These costs also affect prior year claims if treatment carries over into multiple years.

Increasing claims frequency. After a decade of falling claims frequency — the percentage of claims per number of workers — frequency has risen every year since 2021, when it jumped 10%. Last year, it grew 1.7%. According to a presentation at the governing committee meeting, one of the main factors driving frequency was cumulative trauma claims, which accounted for 20% of all claims that had an indemnity component or pay for lost time.

Rates are still below pre-pandemic levels*

* Rates as a percentage of 2015 rates, chosen as the base year as it's the highest in 10 years.



Source: Workers' Compensation Insurance Rating Bureau

Claims adjusting costs. The cost of handling workers' comp claims has also been increasing rapidly over the past few years, driven by increasing claims complexity and wage inflation for adjusters. The average claims adjustment expense increased 9.7% for claims 12 months old or less in 2024, compared to 7.4% in 2023 and 9.2% in 2022. All those costs have been cumulative.

What is the pure premium rate?

The rate request is for the advisory "pure premium" rate, a base rate that only accounts for the cost of claims and claims-adjusting expenses. It does not account for other overhead and insurer profit.

The pure premium is an average across all class codes. Individual employer premiums will vary depending on their industry, claims experience, X-Mod (if they have it) and location.

The pure premium rate varies from class code to class code, and it's not mandatory for insurers to set their rates based on it. Instead, they use the pure premium as a guidepost for pricing their own policies. ❖

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COMMERCIAL LOCATIONS

FAIR PLAN PROPERTY COVERAGE LIMITS TO INCREASE



CALIFORNIA INSURANCE Commissioner Ricardo Lara has approved a request by the FAIR Plan to increase commercial property coverage limits.

The move is aimed at ensuring that commercial facilities with FAIR Plan coverage are not underinsured, which can be devastating if they suffer a total loss.

Under the new limit, the FAIR Plan will have a new “high-value” property coverage option for housing developments under construction, farms and businesses with multiple buildings at one location.

New commercial property limit

Per building:	\$20 million
Total maximum:	\$100 million per location
Current limit:	\$20 million per location

The FAIR Plan must make these new coverage limits available to all eligible applicants for both new and renewal policies before July 26.

FAIR Plan policies are not a complete replacement of a commercial property insurance policy. Policies will only cover damage from the following perils:

- Fire
- Lightning
- Internal explosion

Optional coverages are available at an additional cost, such as for vandalism and malicious mischief.

Private insurer policies cover more. There are two types:

Basic form policies. They provide the least coverage, and usually cover damage caused by fire, windstorms, hail, lightning, explosions, smoke, vandalism, sprinkler leakage, aircraft and vehicle collisions, riots and civil commotion, sinkholes and volcano eruptions.

Broad form policies. These policies usually cover the causes of loss named in the basic form, as well as damage from leaking appliances, structural collapses, falling objects and the weight of ice, sleet or snow.

If you must go to the FAIR Plan, we can arrange for a “differences in conditions” policy that will cover the areas in which the plan is deficient compared to a commercial property policy.

Types of buildings covered

The FAIR Plan will cover the following types of commercial buildings:

Habitational buildings – Buildings with five or more habitational units, such as apartment buildings, hotels or motels.

Retail establishments – Shops such as boutiques, salons, bakeries and convenience stores.

Manufacturing – Companies that manufacture most types of products.

Office buildings – Offices for professionals such as design firms, doctors, lawyers, architects, consultants or other office-based functions.

Buildings under construction – Residential and commercial buildings under construction from the ground up.

Farms and wineries – Basic property insurance for commercial farms, wineries and ranches, not including coverage for crops and livestock.

A final word

The higher limits will come as a relief to many businesses in California whose properties’ replacement costs far exceeded the FAIR Plan limits. That said, premiums remain high under the FAIR Plan.

Besides the FAIR Plan, there is another option if you can’t find coverage. We can try to find coverage in the “non-admitted” market, which consists of global insurance giants like Lloyd’s of London.

These entities are not licensed in California, but they can still cover properties in the state, which we can access through a surplus lines broker. ❖

NEW RULEMAKING

EEOC TO TARGET ‘ANTI-AMERICAN’ BIAS IN HIRING



BUSINESSES THAT regularly hire foreign workers may come under increased scrutiny from the Equal Employment Opportunity Commission after it announced a new enforcement focus on “anti-American bias” in employment decisions.

The agency’s acting chair, Andrea Lucas, said employers who prefer non-American workers over U.S. citizens could face legal consequences under federal anti-discrimination laws.

The enforcement push would also focus on “staffing agencies and other agents that unlawfully comply with client companies’ illegal preferences against American workers,” the EEOC said in announcing the move.

The EEOC’s enforcement shift is part of the Trump administration’s broader policy direction on immigration and labor protections. Specifically, the agency is pledging to crack down on employers who allegedly abuse visa programs or systematically favor immigrant labor over American nationals based on assumptions about cost, compliance or work ethic.

How the EEOC’s new focus works

At the heart of the EEOC’s initiative is Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on national origin. While this law has historically been used to protect immigrants and ethnic minorities, the EEOC says that it also protects American workers from discrimination.

The agency argues that favoring foreign workers over American applicants — whether due to perceptions of lower labor costs, ease of exploitation or presumed work ethic — violates national origin discrimination laws.

Additionally, job postings or internal policies that show a pattern of preference for visa holders or specific national groups may be subject to investigation.

Industries most at risk

- Construction
- Agriculture
- Technology and engineering fields that sponsor H-1B visas
- Hospitality
- Health care

Steps Employers Can Take

- Conduct an audit of your hiring and employment policies, especially around visa sponsorship and national origin.
- Review job advertisements and application procedures to ensure they are neutral and inclusive of all national origins, including American citizens.
- Train HR personnel and hiring managers on the legal requirements of Title VII and the risks of implicit bias in light of the EEOC’s new emphasis.
- Standardize pay and benefits structures to avoid disparities based on nationality or visa status.
- Document decision-making processes related to hiring, promotion and compensation to establish nondiscriminatory intent.
- Ensure that staffing agencies and third-party recruiters working on your behalf are not using hiring criteria that is biased against American citizens.

The takeaway

As enforcement efforts increase, companies that rely on foreign workers must balance workforce strategies with compliance.

The EEOC’s message is clear: anti-American bias is now a priority, and businesses must be prepared to demonstrate fair and lawful employment practices. ❖

WORKPLACE SAFETY

10 TIPS FOR DEALING WITH OSHA INSPECTIONS, CITATIONS



WHEN OSHA shows up, it's not the time to figure things out on the fly. Whether you're in construction, manufacturing or any other field with safety exposure, knowing the ground rules can make all the difference between a successful visit or one where you leave yourself exposed to penalties and a drawn-out appeals process.

If you aren't careful and prepared, fines can quickly pile up. Here's a quick guide to help you handle inspections, citations and communication with OSHA before, during and after they step on site.

1. Ensure you have a walkaround rep

Under OSHA regulations, you are allowed to have someone represent you during an OSHA inspection — yes, even an attorney. It's a smart move to assign someone in advance who knows your operations and your safety protocols and who can speak on your behalf.

2. Sit in on manager interviews

OSHA has the right to interview members of your team. If they interview one of your managers or supervisors, you have the right to be present. It's a good idea to have a company rep or legal counsel there to help ensure the facts are clear and accurate.

However, if they decide to interview a non-managerial employee, you do not have the right to have a manager present.

3. Employees have choices too

Non-supervisory employees can choose to speak with OSHA privately, but they don't have to. They have the right to refuse to participate in an interview with OSHA and end an interview at any time. They can also refuse to allow OSHA to record the meeting.

Conversely, you cannot take retaliatory action against an employee who agrees to be interviewed.

4. There's a six-month deadline for citations

OSHA can issue citations up to six months after a violation occurs. However, if OSHA later learns that you concealed a violation or misled them, the clock resets to when they learn of the subterfuge.

If you don't hear back in the first month or two since the inspection, you are not out of the woods for several more months.

5. No injury? You can still be cited

A workplace injury might bring OSHA in the door, but they can cite you for any unsafe condition they find during the inspection — even if no one was hurt or the issue wasn't what prompted the visit.

6. "Not my worker" isn't always a defense

On shared job sites, you can be cited for hazards affecting another company's employees under OSHA's Multi-Employer Doctrine.

If your team creates or controls a risk, such as the owner of a construction project, you're potentially responsible — even if the injured employee works for a subcontractor.

7. Hazards can be cited, even without a rule

Under OSHA's General Duty Clause, it can cite you for a serious hazard even if there is no specific standard for the hazard and you haven't taken reasonable steps to prevent or abate the risk.

8. You have 15 working days to respond

If you get a citation, the clock starts ticking. You have 15 business days to formally contest it.

But you also have the option to negotiate a resolution before that deadline by requesting an informal conference, which can sometimes be a faster and less expensive option.

Employers often use these informal conferences to negotiate the settlement of a citation before resorting to legal remedies in a formal contest.

9. Citations don't have to be detailed

OSHA doesn't need to spell out every detail in a citation. As long as you get fair notice of what's being alleged, you'll need to get further clarity through the legal or discovery process.

10. Request inspection records with FOIA requests

You can request OSHA's inspection records using a Freedom of Information Act request.

These files can provide insight into why OSHA took certain actions, and help you better prepare for what comes next. ❖