

With deep regret, we would like to let our clients know that Michael J. Stookey, the founder of MJS Safety, passed away on Wed., 2/17, following a short battle with COVID-19. We will keep you informed of service arrangements as those plans are finalized.

The outpouring of support and love we have received with Mike's passing has touched us in so many ways. We always thought he was a pretty special guy, and are truly humbled at the impact he made on so many. He will be dearly missed.

Please be assured that the operations of MJS Safety, LLC will continue under the management of Mike's daughter, Carrie, and her husband, Jeremy Jordan. Taking care of our client's business needs is so important to us; Mike wouldn't have it any other way.

Feel free to contact our office as your needs require.



March 15, 1948 – Feb 17, 2021

Important Message to our fellow Business Owners, Clients and Communities

We are following the latest guidance from the Centers for Disease Control (CDC), the World Health Organization (WHO), local governments, and public health agencies and are prepared to navigate these challenging circumstances with everyone's safety in mind.

Our physical office remains open to continue to serve our clients during this evolving situation. Social distancing protocols, class size limitations, and pre-entry screening will be used as long as they are recommended. We continue to adhere to the following recommendations:

- Capacity is limited to not more than 10 people at a time in one area.
- Our staff disinfects all common surfaces after each class
- Masks may be required when social distancing cannot be maintained
- 1st Aid/CPR courses will require each student utilize their own mannequin. There will be no sharing of supplies of mannequins during class.
- Respiratory fit tests, drug test collections, and alcohol breath collections will be conducted according to the current best practices.

Our sincerest gratitude for your business and the opportunity to serve you. Considering the current global situation surrounding the Coronavirus (COVID-19) pandemic, we wanted to reach out and share the actions [MJS Safety LLC](#) is taking to keep your operations up and running.

carriejordan@mjsafety.com — jeremyjordan@mjsafety.net

Because information regarding COVID-19 and its widespread effects is ever-changing, articles in this month's newsletter referring to COVID-19 will show the release date of the information. We will do our best to pass along the most current information. However, if an article relates to you or your industry directly, you may want to check for any updates that might affect you.

Here are some of the many helpful Resource links:

- [CDC – Centers for Disease Control](#) – Important info re: [2020-2021 Flu Shots](#) & the [COVID-19 vaccine](#)
- [CDPHE – Colorado Department of Public Health and Environment](#)
- [WHO - World Health Organization](#)
- [Water and COVID-19 Frequently Asked Questions](#)
- [OSHA Guidance on Preparing Workplaces for COVID-19](#)
- [OSHA Alert — Prevent Worker Exposure to Coronavirus \(COVID-19\)](#)
- [DOL Resources to help Workers and Employers Prepare for the COVID-19 virus](#)
- [Colorado Works — Temporary Assistance for Needy Families \(TANF\) program](#)
- [Colorado PEAK - Medical, Food, Cash, and Early Childhood Assistance programs](#)
- Covid19.colorado.gov



COLORADO
Department of Revenue

Important Updates from the State of Colorado/ Colorado Department of Revenue

Home page for Colorado Department of Revenue – Division of Motor Vehicles - [link](#)

→ Please see the Home page for detailed information on what will be required prior to visiting one of the locations. Here's the [link](#) for complete details.

In this issue – MAR 2021

▶ [Training Summary / Class Schedule](#) • [TRAINING CENTER - 1760 BROAD ST, UNIT H, MILLIKEN, CO 80543](#) • read more...

→ **Distance Learning & Video Conference classes:** *We are excited to announce that PEC will be allowing us to temporarily offer Safeland and the PEC H2S Clear courses via video conferencing until the end of May. We are also able to offer the 1st aid/ CPR classes with an online blended learning option, and remote skills verification – as well as our In-House H2S Awareness Course. Ask about other distance learning opportunities for more information.*

→ **Video Conference Courses Must Be Scheduled Separately and Are Available Upon Request.**

▶ **COVID-19 Q&A** [read more...](#)

▶ **Visit OSHA's COVID-19 Frequently Asked Questions page...** [read more...](#)

▶ **OSHA's Recordkeeping Requirements During the COVID-19 Pandemic**

OSHA has issued temporary enforcement guidance related to the COVID-19 pandemic for [Recording and Reporting Occupational Injuries and Illnesses](#) required under *29 CFR Part 1904*. [read more...](#)

▶ **National Safety Stand-Down To Prevent Falls in Construction — MAY 3-7, 2021 ...** [read more...](#)

▶ **OSHA Issues Proposed Rule to Update Hazard Communication Standard**

The U.S. Department of Labor's **Occupational Safety and Health Administration (OSHA)** recently issued a [proposed rule](#) to update the agency's **Hazard Communication Standard (HCS)** to align with the **seventh** revision of the **Globally Harmonized System of Classification and Labeling of Chemicals (GHS)**. [read more...](#)



▶ **US Department of Labor Issues Stronger Workplace Guidance on Coronavirus**

New OSHA guidance seeks to mitigate, prevent viral spread in the workplace... [read more...](#)

▶ **OSHA Worker Rights and Protections — Concerned about health and safety on the job?**

Learn how OSHA protects you, and what to do if you think you are not protected at work. [read more...](#)

▶ **Save the Date: April 26th — National Struck-by Stand-Down**

Mark your calendars! CPWR and the NORA Construction Sector Council are planning a **second annual Stand-Down to Prevent Struck-by Incidents in Construction** for April 26. [read more...](#)

TRANSPORTATION NEWS SUMMARY

▶ **Red Tape, Deaf Ears: CRITICISM MOUNTS OF DATAQS CRASH- AND INSPECTION- INFO REVIEW SYSTEM**
A Michigan-based **small fleet owner** got a bit of a **DataQs victory** last year, but it **didn't** come easily. [read more...](#)

▶ **Annual Roadcheck Inspection Blitz to Focus on Lighting, HOS Compliance**

The annual 72-hour **International Roadcheck** inspection blitz will be held May 4-6 with an added focus on lighting and hours of service... [read more...](#)



▶ **2020 Spurred Record Number of Fleet Failures — But Rising New Entrant Carriers**

Of little surprise, the number of failures by trucking companies in 2020 jumped compared to years prior as the **economic effects** of the **COVID-19 pandemic** and associated shutdown orders converged on fleets' operations and per-mile spot market rates plunged... [read more...](#)

▶ **Carrier Compliance Audits Dipped in '20 – But Offsite Reviews Skyrocketed**

As with many other pandemic-driven aspects of the world that developed in 2020, the U.S. DOT and its state enforcement partners turned to remote options to conduct safety audits of trucking companies. [read more...](#)

▶ **CDC/TSA Mask Requirements for Transportation**

As you may have read, the CDC and TSA have issued directives regarding the applicability of "face mask requirements" for the transportation industry. [read more...](#)

▶ **The Tens of Thousands of Drivers with Drug Violations Likely to Leave Trucking for Good**

The **heightened sharing** of drug screening status has worsened fleets' struggles with driver recruiting, said Jeremy Reymer, founder and CEO of driver applicant tracking system **DriverReach**. [read more...](#)



▶ **Hours of Service Waiver Extended for COVID Relief Haulers**

FMCSA extends hours of service waiver for COVID relief haulers... [read more...](#)

▶ **Truckers' CDL, Med Cert COVID Waivers Extended Through May**

States given flexibility to further extend CDL, med cert expirations... [read more...](#)

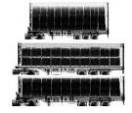
▶ EPA Steps Up Efforts to Catch Emissions Tampering

The U.S. Environmental Protection Agency is in its second year of a four-year enforcement effort to catch truckers who are installing emissions defeat devices or otherwise tampering with emissions systems. [read more...](#)



▶ Scans Could Cause Border Backups

A new U.S. law signed Jan. 5 would require every vehicle, truck and freight train that crosses into the United States from Mexico or Canada to be scanned and inspected at ports of entry with X-ray or similar technology. [read more...](#)



MSHA NEWS SUMMARY

▶ MSHA Reports the First Fatalities of 2021... [read more...](#)



MONTHLY SAFETY & HEALTH TIP NEWS SUMMARY

▶ Proactive Fall Prevention — in just 2 minutes

As the second leading preventable workplace injury, falls plague the workforce. The impact of fall related injuries is felt heavily in service-providing industries as well as transportation, utilities and the health care sector. [read more...](#)



MJS Safety OFFERS DRUG & ALCOHOL TESTING

to comply with DOT/FMCSA, PHMSA & Non-DOT requirements.

We offer an in-house drug testing consortium pool with customer service that cannot be beat.

We also provide assistance with 3rd party Drug Testing Compliance Auditing through NCMS, TPS Alert & Veriforce, as well as DISA account management.

“Training Spotlight”

(there will be a different course featured monthly)

HYDROGEN SULFIDE AWARENESS COURSE

Our Hydrogen Sulfide Awareness course meets the requirements of the ANSI Z-390-2017 Standard for Hydrogen Sulfide Awareness training. This 4 hour course covers what hydrogen sulfide is, where it can be found, and what employees need to do to protect themselves when working on job sites where hydrogen sulfide may be possible. Respiratory protection, air monitor use and care, control measures, and industry best practices are also covered. Upon completion of this course students will receive a wallet card and certificate. Per the ANSI Z-390 standard the training should be renewed on an annual basis.

For all of our Course Offerings visit the [MJS Safety website](#)

► *MJS Safety also offers custom classes to fit the needs of your company* ◀

SOURCES FOR THIS ISSUE INCLUDE:
 OSHA
 FMCSA
 MSHA
 USDOL
 ISHN
 Overdrive
 CCJ
 Tony Brock
 CMCA
 Work Truck
 tnews
 Transport Topics
 rockproducts.com
 BroughtonCapital
 ATA
 Taylor & Assoc
 (Lesley Sachs)
 CPWR
 EHS Daily Advisor
 Jeremy Reyrmer-
 Drive Reach

Schedule of classes Mar 2021: • *TRAINING CENTER - 1760 BROAD ST, UNIT H, MILLIKEN, CO 80543*

• *SEE MORE INFORMATION FOR Distance Learning & Video Conference classes*

- *PEC Safeland Basic Orientation: March 1, 12, 25; 8 – 4:30;
This class is available through video conference instructor led distance learning through 6/30/2021 - only upon request
- *First Aid/CPR/AED/BLOODBORNE PATHOGENS (We offer MEDIC FIRST AID): March 11, 26; 8 — noon;
This class available for blended learning (online) with remote or in-person skills assessment
- *Hydrogen Sulfide Awareness [ANSI Z390 -2017 Course]: March 11, 26; 12:30 – 4:30;
This class available via Instructor Led video conference

[For any last minute schedule updates, go to www.mjssafety.com]

► **NEED ANY OF THESE CLASSES IN SPANISH? CONTACT carriejordan@mjssafety.com TO SCHEDULE TODAY** ◀

To sign up for one of these classes, or inquire about scheduling a different class
 Call Carrie at 720-203-4948 or Jeremy at 720-203-6325 or Mike at 303-881-2409

— FEATURED TRAINING PROGRAMS —

- Safeland Basic Orientation
- Hydrogen Sulfide Awareness
- First Aid/CPR
- OSHA 10 Hour for General Industry or Construction
- Confined Space for Construction
- Competent Person for Excavations
- HAZWOPER 8, 24 & 40 hr Courses

Order
First Aid & other Safety Supplies
www.mjssafety.com
 Jeremy 720-203-6325
 Carrie 720-203-4948
 or Mike
 303-881-2409

Unable to attend a class?

MJS Safety offers multiple “ONLINE TRAINING COURSES”

including

OSHA Construction, General Industry, Environmental, Hazardous Waste Public Safety, DOT, Human Resource, and Storm Water & ISO

or you can

Need Help With

- ISNetwork
- PEC/Veriforce
- NCMS
- Avetta/BROWZ
- TPS ALERT

CALL US!!!

Schedule training at our Training Center in Milliken...or On-Site at your facility



OSHA / CONSTRUCTION

COVID-19 Q&A

Q

Will employers have additional time to complete annual training requirements because of mandated social distancing and other restrictions enacted during the coronavirus pandemic?

A

OSHA issued [interim guidance](#) on using discretion in enforcement when employers make good faith efforts to comply with OSHA standards during the pandemic.

▶ **MJS Safety can help guide you through the requirements. Call us!** ◀

Visit OSHA's [COVID-19 Frequently Asked Questions page](#)

(questions are grouped by topic)

OSHA's Recordkeeping Requirements During the COVID-19 Pandemic

OSHA has issued temporary enforcement guidance related to the COVID-19 pandemic for [Recording and Reporting Occupational Injuries and Illnesses](#) required under *29 CFR Part 1904*.

For more information see the [Enforcement Memoranda](#) section of OSHA's [COVID-19 Safety and Health Topics page](#).

National Safety Stand-Down

To Prevent Falls in Construction

MAY 3-7, 2021

Fatalities caused by falls from elevation continue to be a leading cause of death for construction employees, accounting for 320 of the 1,008 construction fatalities recorded in 2018 (BLS data). Those deaths were preventable. The **National Safety Stand-Down** raises fall hazard awareness across the country in an effort to stop fall fatalities and injuries.

What is a Safety Stand-Down?

A **Safety Stand-Down** is a voluntary event for employers to talk directly to employees about safety. Any workplace can hold a stand-down by taking a break to focus on "*Fall Hazards*" and reinforcing the importance of "*Fall Prevention*". Employers of companies not exposed to fall hazards, can also use this opportunity to have a conversation with employees about the other job hazards they face, protective methods, and the company's safety policies and goals. It can also be an opportunity for employees to talk to management about fall and other job hazards they see.

Under the Occupational Safety and Health Act of 1970, employers are responsible for providing safe and healthful workplaces for their employees.

[OSHA's](#) role is to help ensure these conditions for America's working men and women by setting and enforcing standards, and providing training, education and assistance.

Watch for more information in next month's newsletter!

OSHA Issues Proposed Rule to Update Hazard Communication Standard

The U.S. Department of Labor's **Occupational Safety and Health Administration (OSHA)** recently issued a [proposed rule](#) to update the agency's **Hazard Communication Standard (HCS)** to align with the seventh revision of the **Globally Harmonized System of Classification and Labelling of Chemicals (GHS)**.

OSHA expects the **HCS update** will **increase worker protections**, and reduce the **incidence** of chemical-related occupational **illnesses and injuries** by further **improving** the information on the **labels and Safety Data Sheets for hazardous chemicals**. Proposed **modifications** will also address issues since **implementation** of the **2012 standard**, and improve **alignment** with other **federal agencies and Canada**.

Individuals may **submit comments** identified by **Docket No. OSHA-2019-0001**, electronically at the [Federal e-Rulemaking Portal](#). Read the [Federal Register notice](#) for details. The **deadline for submitting comments** is **April 19, 2021**.

OSHA has **preliminarily** determined that the **proposed modifications** would **enhance** the effectiveness of the **standard** by improving **dissemination** of hazard **information** so employees are more **appropriately apprised** of exposure to **chemical hazards in the workplace**.

Established in 1983, the **Hazard Communication Standard** provides a standardized **approach to workplace hazard communications** associated with exposure to **hazardous chemicals**. **OSHA** updated the standard in **2012** to align with the **third revision** of the United Nations' **GHS** to provide a **common and coherent approach** to classifying **chemicals** and communicating **hazard information**.

See [OSHA's HCS website](#) for more detailed **information** regarding these **changes**.



Jan 29, 2021

US Department of Labor Issues Stronger Workplace Guidance on Coronavirus

New OSHA guidance seeks to mitigate, prevent viral spread in the workplace

The U.S. Department of Labor announced recently that its **Occupational Safety and Health Administration** has issued **stronger worker safety guidance** to help employers and workers **implement** a coronavirus **prevention program** and better identify risks which **could lead to exposure** and contraction. In January, President Biden directed **OSHA** to release **clear guidance** for employers to help **keep workers safe from COVID-19 exposure**.

[“Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace”](#) provides **updated guidance and recommendations**, and outlines existing safety and **health standards**. **OSHA** is providing the **recommendations** to assist **employers** in providing a safe and **healthful workplace**.

“More than **400,000 Americans** have died from **COVID-19** and millions of people are **out of work** as a result of this **crisis**. Employers and **workers** can help our **nation fight** and overcome this **deadly pandemic** by committing **themselves** to making their workplaces **as safe as possible**,” said Senior Counselor to the Secretary of Labor M. Patricia Smith. “The **recommendations** in **OSHA’s** updated guidance will help us **defeat** the virus, strengthen our **economy** and bring an **end** to the staggering human and **economic toll** that the **coronavirus** has taken on **our nation**.”

Implementing a coronavirus **prevention program** is the most **effective** way to reduce the **spread of the virus**. The guidance **recommends several** essential elements in a **prevention program**:

- *Conduct a hazard assessment.*
- *Identify control measures to limit the spread of the virus.*
- *Adopt policies for employee absences that don't punish workers as a way to encourage potentially infected workers to remain home.*
- *Ensure that coronavirus policies and procedures are communicated to both English and non-English speaking workers.*
- *Implement protections from retaliation for workers who raise coronavirus-related concerns.*

“**OSHA** is updating its **guidance** to **reduce the risk** of transmission of the **coronavirus** and improve **worker protections** so businesses can **operate safely** and employees can **stay safe and working**,” said Principal Deputy Assistant Secretary for **Occupational Safety and Health** Jim Frederick.

The **guidance details** key measures for **limiting coronavirus's spread**, including ensuring **infected or potentially infected** people are not in the **workplace**, implementing and following **physical distancing protocols** and using **surgical masks** or **cloth face coverings**. It also provides **guidance** on use of **personal protective equipment**, improving ventilation, **good hygiene** and **routine cleaning**.

OSHA will update this **current guidance** as **developments** in science, **best practices** and **standards warrant**.

This guidance is **not a standard** or regulation, and it **creates no new legal obligations**. It contains **recommendations** as well as **descriptions** of **existing mandatory safety and health standards**. The **recommendations** are advisory in nature, **informational in content** and are intended to **assist employers** in recognizing and **abating hazards** likely to **cause death** or serious **physical harm** as part of their **obligation** to provide a safe and **healthful workplace**.

OSHA Worker Rights and Protections

Concerned about health and safety on the job?

Learn how OSHA protects you, and what to do if you think you are not protected at work.

Know Your Rights

Federal law entitles you to a safe workplace. Your employer must keep your workplace free of known health and safety hazards. You have the right to speak up about hazards without fear of retaliation. You also have the right to:

- Receive workplace safety and health training in a language you understand
- Work on machines that are safe
- Receive required safety equipment, such as gloves or a harness and lifeline for falls
- Be protected from toxic chemicals
- Request an OSHA inspection, and speak to the inspector
- Report an injury or illness, and get copies of your medical records
- Review records of work-related injuries and illnesses
- See results of tests taken to find workplace hazards

When to File a Complaint

• Safety and Health Complaint

If you believe working conditions are unsafe or unhealthful, you may file a confidential complaint with OSHA and ask for an inspection. If possible, tell your employer about your concerns.

[How to File a Safety and Health Complaint](#)

• Protection from Retaliation

It is illegal for an employer to fire, demote, transfer or otherwise retaliate against a worker who complains to OSHA and uses their legal rights. If you believe you have been retaliated against in any way, file a whistleblower complaint within 30 days of the alleged retaliation.

[How to File a Whistleblower Complaint](#)

Save the Date: April 26th National Struck-by Stand-Down

Mark your calendars! CPWR and the NORA Construction Sector Council are planning a second annual **Stand-Down to Prevent Struck-by Incidents in Construction** for April 26. The **Stand-Down**, to take place on the **first day of National Work Zone Awareness Week (April 26-30)**, asks **contractors** to pause work to **recognize that struck-by incidents** are a leading **cause of death** among **construction workers** and to educate their **crews** about risks and **solutions** for **mitigating** them.

To make the **Stand-Down** a **success** during **COVID-19**, we are **encouraging contractors, workers, and other stakeholders** to participate **virtually**. More **information** on ways to **participate** will be **posted** on CPWR's [Work Zone Safety webpage](#) soon.

Contact OSHA

To discuss a health and safety issue at work, contact **OSHA** toll-free at 1-800-321-6742 (OSHA) or by [email](#), or [contact your nearest OSHA office](#). Your information will be kept confidential.

[FAQ's](#)

[Worker's Rights Booklet](#)
Also available in [Spanish](#)

Red Tape, Deaf Ears: CRITICISM MOUNTS OF DATAQS CRASH- AND INSPECTION-INFO REVIEW SYSTEM

A Michigan-based **small fleet owner** got a bit of a **DataQs victory** last year, but it **didn't** come easily. He was using the **system** in a **common way** — disputing what to him was an officer's **obvious misinterpretation** of safety **regulation**. In this case, it was a driver charged at **roadside** in Michigan with **violating** the federal **cell-phone-use** statute.

Like this **fleet owner**, many **owner-operators** and **small-fleet owners** **report** having used the **Federal Motor Carrier Safety Administration's DataQs system**. Administered in cooperation with **state enforcement jurisdictions**, **DataQs** is the **principal protocol** for carriers, drivers and **others** to challenge or **simply correct** information collected about them -- **crash information**, inspections and their **associated violations**, chiefly.

In this owner's case, **no citation** for cell-phone use was **issued**, and the driver was **not utilizing** the phone for anything other than **GPS** at the time of the **stop**, as the **officer's examination** of the phone **revealed**, the owner said. The **federal prohibition** on **handheld device** use does not include **GPS purposes**, as he pointed out, but rather **handheld use** while talking or **texting**, among other **types of uses**.

The **fleet owner's** first attempt to **challenge** the violation **dragged on** for more than **eight months**. His goal was to have it **removed** from his company's and the **driver's records** in the **Compliance, Safety, Accountability and Pre-Employment Screening Program** systems. The owner's **description** of his **frustrating efforts** is of a piece with other horror stories around **challenging violations**.

Thousands of **DataQs reviews** are **rejected** each year. Many come from **requestors** who have a **reasonable basis** for challenging and who have exercised **persistence** in what can become a **months-long project**. Rejections are **common** in cases that **boil down** to a judgment call, where the **carrier or driver lacks evidence** to change the mind of the **officer** who wrote the **violation** and will **eventually weigh in** again on the request for **data review (RDR)**, then **yet again** if there is an **appeal**.

Perhaps the **cases most maddening** to **fleet executives** and **owner-operators**, though, involve **matter-of-fact correction** of basic data about a **truck**, a driver or a carrier that gets **stonewalled** even when the review **request presents** clear evidence of the error. In 2019, according to **federal data**, there were **22,271** such informational-type **DataQs filed** — inspections/crashes **assigned** to the **wrong carrier** or driver, for instance, duplicate records in the **system**, and more — accounting for **41%** of the total **54,000-plus DataQs** filed that year.

In its defense, **FMCSA** and state **partners** point to thousands of **DataQs** filings **per year** where such information is, in fact, quickly **corrected**. The average **success rate** — meaning information was changed or **removed** as a result -- of this category of **informational-type DataQs** was **78%** in 2019.

For **DataQs overall**, success rates **ranged widely** when grouped by **carrier size**. On the low end, **fleets of two to five trucks** had a success rate of **51%** for inspection-related **DataQs** in 2019. One-truck **owner-operators**, accountable only for themselves, had a **comparable rate of 62%**. For **500-plus-truck fleets**, with personnel devoted to **tasks** such as **DataQs filing**, that rate was **69%**.

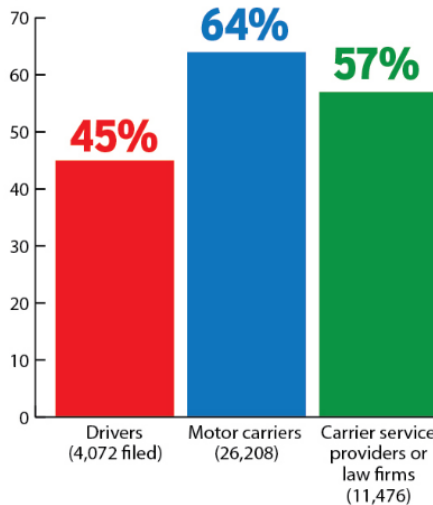
Though it's **not hard** to find **prolonged DataQs cases**, **FMCSA** touts its **processing time** for RDRs. It says most are **closed within days** of its "**best practice**" target of "**within 14 days** of receipt."

Nevertheless, even with **clear evidence** that **objective information** was recorded in **error**, fixing that can be "**like pulling teeth**" when a filing **gets rejected**, said Adam Kleinschmidt, who works in the **compliance department** at the **Owner-Operator Independent Drivers Association**. He cited a case in **Georgia** where **OODA challenged** incorrect info on a **carrier**. The request was **denied**, with this response, he said: "**The inspecting officer did his job** at the time to **verify the information.**"

OODA obtained further evidence — an **accident report** — and appealed. "**We verified** the information on the **truck equipment** was not **matching**," Kleinschmidt said. This time the **correction** was **quickly approved**. "**They're making us do all the heavy lifting** when we try to **call them out**," he said.

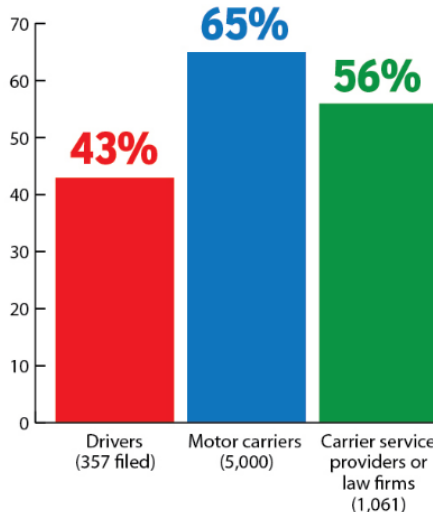
2019 DATAQS REVIEW REQUESTS

Inspection-related success rates



Of the 47,500 inspection-related review requests, about 5,700 others were initiated by FMCSA, states or other parties.

Crash-related success rates



Carriers, including one-truck operators with operating authority, filed the majority of inspection-related DataQs requests and the vast majority of crash-related requests. Carriers also boasted the highest rate of success in both review categories. Requests from drivers (including leased owner-operators) had the lowest rate of success, as shown.

He and **others say** those kinds of **filings** are usually **successful** because other **records** – insurance policies, **accident reports** – support the **claim**.

On the other hand, **“It’s rare to beat a violation,”** Kleinschmidt said. **FMCSA** statistics **back him up**. During **2019**, just **39% percent** of **DataQs** filed seeking to change a **violation** that had no **associated citation** (*a ticket that can be adjudicated in court*) resulted in a **change**.

“Basically you’re talking to the guy who wrote the **inspection**, so it doesn’t do you **much better** than **arguing** on the side of the **road,”** Kleinschmidt contended, yet that’s **not the case** in all states.

In **Minnesota**, known for a tiered **DataQs decision** appeal process that **involves** outside **industry reps**, the **first review** does involve the **inspecting officer**. Yet, said Captain Jon Olsen of the state patrol, a **DataQs administrator** handles collection of **information** from the **carrier/driver** and the officer. With the assistance of a **dedicated staff**, the administrator makes the **decision** on any changes. In **essence**, that administrator’s doing at least **some of the heavy lifting**.

OOIDA will file an **RDR** as a **free service** for its members **“as long as it’s valid,”** Kleinschmidt said. **“We need to make sure** the information is **challengeable,”** meaning it has **clear evidence**.

Responses **can vary widely** by state, he said. Arizona makes a **filer “jump through the hoops”** to ensure that you have a **position** that qualifies you to **make an appeal**. **“Kansas almost never changes anything”** in his experience, **“no matter** how good your **argument.”**

Kansas Highway Patrol **Public Information Officer** Nick Wright notes the **DataQs** that come into the **patrol** there are **changed** at the rate of **40%-45%** of the time, below the approximately **65% national average** for 2019, according to **FMCSA**.

A Texas-based Freight Line, with **180 trucks**, has largely **given up on challenging** violations and now files **RDRs** mostly about correcting **misinformation**, said it’s Vice President. **“It has to have some kind of proof** beyond what you **normally get** at roadside,” he said.

In **one case** still under **DataQs review**, a normally **short-haul driver** was given a **no-logbook violation** when discovered without an **electronic logging device**. But the officer **failed** to understand that the **driver remained well under** the **eight days allowed** beyond the **short-haul radius** in any rolling **30-day period** before the **ELD requirement** kicks in.

In spite of **continuing frustrations** for the carrier, **“These DataQs** have **improved exponentially** from when they first started,” the Texas-based Freight Line’s VP said. **“Almost every one was denied.** We’d go **back again** and again and say you **must not be reading** my submission. The **joke** was they **wouldn’t read them**, they’d just hit **‘Denied.’”**

In **some states**, it might not have **been a joke**. Jon Olsen of the state patrol said he **has heard of past automatic denial policies** from colleagues in **other states**. **“Then if you request** a review, they might **consider it,”** or follow the **common procedure** of **“sending it straight to the inspector”** who wrote the **violation** or handled the inspection or **crash** in the **first place**.

In the Michigan-based **small fleet owner’s** case, **“the DataQ process** failed **miserably** because the **officers** are not held to a standard other than **what they believe,”** he said. **“This was my experience** when I **argued with a sergeant”** over the **handheld-cell-use violation**. The issuing officer **stood his ground** on the violation, a **Michigan State Police sergeant** agreed, and the **request** for a change was **denied**.

“That’s not the process that needs to be in **place,”** noted Olsen. **“It’s not doing** anybody **any favors.”**

Another problem with fairness in the **process** is the **issuance** of a **warning**, such as for **speeding**, written at **roadside** also with a **Level 3 inspection report** where it’s marked as a **speeding violation**. That violation **flows through** to the carrier’s **SMS profile** and the driver’s **Pre-employment Screening Program** report.

A **speeding warning** is not a **citation** that can be taken to **court**, so if that **violation** is on the **associated inspection** report, **“you can’t do anything** about it,” said **Drivers Legal Plan** Marketing Director Richard Banks. **“They should write you a ticket,** but they **don’t want to go to court.”**

The **smallest fleets**, such as those represented by **OOIDA** and the **National Association of Small Trucking Companies**, can be at a disadvantage in **succeeding** at a **DataQs filing** since they often lack a **department**, or even **one person**, devoted to **handling** the process. **“They want to verify registration,** or they want **insurance records,** or **ELD records,”** Kleinschmidt said. **“You really need** an office to **come up with** a lot of this.”

Fleets the size of a Fredericksburg, Virginia trucking company, a **130-truck carrier**, can afford to **employ someone** who specializes in this, said their director of **safety** and human **resources**. **“So you can’t say** this is a **fair program.”** The company has **years of experience** in this area and has **never failed** in a **DataQs request**. Small fleets **“don’t have the resources** to argue what they **need to argue.”**

With **persistence**, however, some **get their desired** result.

The **Michigan-based small fleet owner**, for instance, who also notes the **problem** of having a **violation listed** but with **no citation** to open the **door** for a **court appeal**. Months into his **DataQs efforts**, he delivered a note to the **Michigan Attorney General** and copied the **state police**. He included the **language** of the **applicable federal statute**, his **reasoning** based upon that, and this **language**:

Not having an actual citation provides no mechanism by which this could have been handled through the court and I am not happy just accepting this as “the way it is.”

I would like to assert that mentioning the cell phone law, in the violations section, as a reason for this stop is as good as a guilty assessment in the CSA scoring process. If there was no violation in the stop then there should be no mention of a violation in the inspection report.

Annual Roadcheck Inspection Blitz to Focus on Lighting, HOS Compliance

The annual 72-hour **International Roadcheck** inspection blitz will be held **May 4-6** with an added focus on lighting and hours of service, the

Commercial Vehicle Safety Alliance announced recently.

Inspectors will primarily conduct full **North American Standard Level I** inspections, which cover the entirety of the truck and the driver's records.

CVSA inspectors will ensure the vehicle's brake systems, cargo securement, coupling devices, driveline/driveshaft components, driver's seat, exhaust systems, frames, fuel systems, lighting devices, steering mechanisms, suspensions, tires, van and open-top trailer bodies, wheels, rims, hubs and windshield wipers are compliant with regulations.

Inspectors will check the driver's operating credentials, hours-of-service documentation, seat belt usage, and for alcohol and/or drug impairment. A driver will be placed out of service if an inspector discovers driver-related out-of-service conditions.

The two areas **CVSA** is asking inspectors to focus on this year – lighting for vehicles and hours of service for drivers – are among the top violations each year. According to the **Federal Motor Carrier Safety Administration**, the "lamps inoperable" lighting violations was the number one vehicle violation in fiscal 2020, accounting for approximately 12.24% of all vehicle violations discovered that year. And during last year's **Roadcheck** inspection spree, the top driver out-of-service condition was hours of service, accounting for nearly 35% of all driver OOS violations.

The **2020 International Roadcheck**, which was delayed until **September** due to **COVID-19**, resulted in more than **15,000 trucks** and drivers being placed out-of-service.

Watch for more information in next month's newsletter!



2020 Spurred Record Number of Fleet Failures — But Rising New Entrant Carriers

Of little surprise, the number of failures by trucking companies in 2020 jumped compared to years prior as the economic effects of the **COVID-19** pandemic and associated shutdown orders converged on fleets' operations and per-mile spot market rates plunged, according to transportation-focused economic analysis firm **Broughton Capital**, which tracks annual motor carrier failures using debt and default data.

"What happened is simple — in late March and early April, we had rates plunge to levels below what the variable costs to operate a trucking company are," said Donald Broughton, principal and managing partner of **Broughton Capital**. "Rates fell below the cash costs of operation across all modes. Secondly, there weren't any miles to run. It was like being stuck on a desert island, and saying, Well, we only have celery to eat, and not much of it."

The pronounced downturn spurred a record number of trucking failures, said Broughton, with the most occurring in May. Failures slowed in the back half of the year as freight demand rebounded and capacity tightened on the spot market.

Some **3,140 carriers** ceased operation in 2020, Broughton said, compared to **1,100** in 2019 and virtually none in 2018. Broughton estimated carrier failures last year accounted for about **50,800 trucks**

being taken off the road, compared to **34,000** the year prior, though Indianapolis-based carrier, **Celadon's, December 2019 closure** alone accounted for about **3,000 units**.

The average fleet size of last year's carrier failure numbers was **16 trucks**, down from **22 trucks** in 2019, though again that number was slightly inflated by **Celadon's closure**.

Broughton said the number of carrier failures last year accounted for about **17%** of the average spot market capacity on a daily basis, which helped buoy spot rates as freight volumes climbed from **June** through **November**.

While trucking company failures spiked in 2020, so too did new entrants. As of **January 2021**, data from the **U.S. DOT** shows nearly **109,000** registered motor carriers falling under the category of new entrant status (*those registered within the past 18 months*). That's the highest of the past five years, up slightly from some **105,200** as of **December 2020** and **90,900** as of **December 2019**.

Expectedly, the bulk of new entrant carriers (**76,719**) as of last month (*January*), are one-truck operators, according to **DOT** data. Most of the remaining **28,501** operate between two and **10 trucks**.

"We're going to have an economic rebound that is stronger than anyone is willing to believe — the economy is going to outperform everyone's expectations for the next couple of years," Broughton projected, stressing that the economy will be stronger because of consumer demand and improved technology — much of it brought on by the pandemic.

ATA Chief Economist Bob Costello is forecasting a gross domestic product growth rate exceeding **4%** for 2021 as the economy picks up steam, which means trucking will have more freight to haul. "There are parts of our economy that are not only busy, they are going full out," Costello said. "E-commerce is very busy. Temperature controlled freight, especially around grocery stores. Flatbed freight is very strong, especially around single-family home construction, as well as remodeling. There are some pockets of weakness, but that's because the economy is not all growing at the same pace."

Carrier Compliance Audits Dipped in '20 – But Offsite Reviews Skyrocketed

As with many other pandemic-driven aspects of the world that developed in 2020, the U.S. DOT and its state enforcement partners turned to remote options to conduct safety audits of trucking companies.

More than half of the 10,999 compliance reviews of carriers conducted last year were conducted as offsite reviews – via email and phone – rather than inspectors showing up in person to perform audits. Just 10% of audits were remote in 2019, and just 2% in 2018. In 2017, just .5% of all compliance reviews were held remotely, according to U.S. DOT data.

As reported by CCJ in August, the Federal Motor Carrier Safety Administration (FMCSA) and its state enforcers leveraged new authority last year as part of the federal government's COVID-19 response, which allowed FMCSA to issue carriers' safety ratings (Satisfactory, Conditional, Unsatisfactory) via remote audits, leading the surge in offsite reviews.

Lesley Sachs, a partner at the transportation-focused law firm Taylor & Associates, watched the spike occur last year and has been helping carriers navigate the review process. She says that, even if and when the pandemic subsides, the trend toward offsite compliance reviews is likely here to stay.

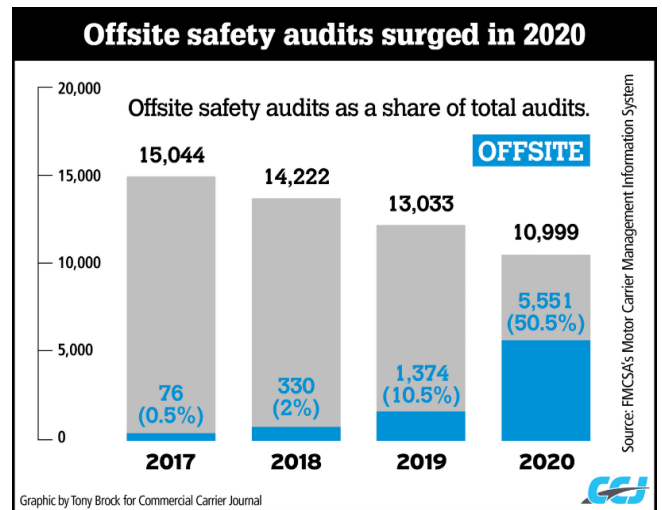
"FMCSA was putting this infrastructure in place and testing offsite audits even before the COVID pandemic," she said. The need for physical distancing amid the pandemic "presented an ideal time," she said, for the agency to turn to offsite reviews as a primary tool in its kit. "If the tool is working," Sachs said, "they'll continue to use it beyond COVID."

Enforcers are still leveraging CSA scores to target motor carriers for safety audits, said Sachs. "It's a good reminder for everyone that they need to be vigilant about paying attention to violations. And when you have them, put in corrective actions to stop it from becoming a trend, because those violations will draw attention if you're selected for an audit."

For example, Sachs said, a few instances of speeding violations by drivers should prompt a fleet to institute measures to mitigate violations rather than just paying the citations and moving on.

Likewise, carriers should put an emphasis on being organized in case they come under scrutiny by enforcers. "It's a fast-moving process," Sachs said. "They typically wrap up in a week to two weeks, and there's not much wiggle room."

Carriers should be ready to produce requested documents and files within 48 hours if they're contacted for an offsite audit, she said. That will include company information and background files, and a sample of driver and vehicle files, accident records, hours of service records for drivers receiving citations or roadside violations, and drug and alcohol testing related to specific accident records.



CDC/TSA Mask Requirements for Transportation

As you may have read, the CDC and TSA have issued directives regarding the applicability of "face mask requirements" for the transportation industry. Much of the content of the directives apply to public transportation, such as buses, railroads, and transit. However, there has been a lack of clarity with regard to the applicability to trucking.

The CDC directive specifically exempts:

"commercial motor vehicles or trucks as these terms are defined in 49 CFR 390.5, if the driver is the sole occupant of the vehicle or truck".

Unfortunately, the directives do not specifically exempt situations where a driver is with another individual, i.e., team drivers. ATA staff recently concluded a call with FMCSA, TSA and CDC officials and raised this as a concern. The respective groups were receptive to the concern and stated they will discuss a potential exemption or specific clarification to the trucking industry.

The official CDC Mask Order and TSA Security Directive notices are below for your reference.

[CDC Mask Order](#)

[TSA Security Directive](#)

The Tens of Thousands of Drivers with Drug Violations Likely to Leave Trucking for Good

The heightened sharing of drug screening status has worsened fleets' struggles with driver recruiting, said Jeremy Reymer,



founder and CEO of driver applicant tracking system DriverReach. "On the flip side, we haven't seen a lot of new drivers come in to the industry to replace them," he said. The Clearinghouse effect, on top of the reduced driver count due to COVID cutbacks, "has magnified the disparity" of new drivers coming into the industry, he said.

Small-fleet drug testing has produced positives in about 1% of screens in recent years, said David Owen, president of the National Association of Small Trucking Companies. That data, comparable to industrywide rates, comes from 5,000 NASTC members that use the association's testing service.

Because carriers are required to perform a Clearinghouse query on all drivers annually, the initial deadline for testing all drivers was Jan. 5, which closed the system's first 12-month period of operation. Carriers face a fine of up to \$2,500 per offense if non-compliance surfaces in a compliance review or safety audit.

The required check is meant to ensure that drivers haven't failed a drug or alcohol test, such as a pre-employment screen when applying for a job at another fleet, only to remain behind the wheel and employed at another fleet.

Enactment of the Clearinghouse "did not change the federal drug and alcohol testing regulations or the required percentage of drivers tested," said Duane DeBruyne, FMCSA spokesman. Also, "before the establishment of the Clearinghouse, the identical number of drivers would still have been prohibited from operating. What's different now is the degree of difficulty for prohibited drivers to circumvent the system."

FMCSA offers answers to dozens of [FAQ's](#) about the Clearinghouse.

SUBSTANCES IDENTIFIED IN POSITIVE DRUG TESTS as of 1/1/2021	
Substance	# Tests Identified
Not Identified	43
6-Acetylmorphine (6-AM)	302
Amphetamine (AMP)	4,953
Cocaine Metabolite (BZE)	7,940
Codeine (COD)	386
DILUTE	2,398
Hydrocodone (HYC)	1,082
Hydromorphone (HYM)	1,000
Marijuana Metabolite (Δ9-THCA)	29,511
Methylenedioxyamphetamine (MDA)	30
Ecstasy (MDMA)	65
Methamphetamine (MET/MAMP)	5,187
Morphine (MOP)	443
Oxycodone (OXYC)	1,106
Oxymorphone (OXYM)	1,372
Phencyclidine (PCP)	137
All substances	55,955

Note: More than one substance can appear in a positive drug test

Among drug violations during 2020, by far the leading drug for positive tests was marijuana, with 29,511 violations. Cocaine and various amphetamines were next most common. Some drivers were charged with more than one violation.

FEB 15, 2021

Hours of Service Waiver Extended for COVID Relief Haulers

FMCSA extends hours of service waiver for COVID relief haulers

The Federal Motor Carrier Safety Administration is extending its hours of service waiver for truck drivers hauling relief supplies related to the COVID-19 pandemic through May 31. The waiver was most recently set to expire Feb. 28.

Motor carriers and drivers providing direct assistance in support of relief efforts related to COVID-19 are exempt from Parts 390 through 399 of the Federal Motor Carrier Safety Regulations.

Under the terms of the waiver, direct COVID-19 assistance is limited to the transportation of the following:

- Livestock and livestock feed
- Medical supplies and equipment related to the testing, diagnosis and treatment of COVID-19
- Vaccines, constituent products, and medical supplies and equipment including ancillary supplies/kits for the administration of vaccines, related to the prevention of COVID-19
- Supplies and equipment necessary for community safety, sanitation, and prevention of community transmission of COVID-19 such as masks, gloves, hand sanitizer, soap and disinfectants
- Food, paper products and other groceries for emergency restocking of distribution centers or stores

Direct assistance does not include routine commercial deliveries, including mixed loads with a nominal quantity of qualifying emergency relief added to obtain the benefits of this emergency declaration.

The agency notes in its most recent waiver renewal that it intends "to wind down the exemptions granted under this emergency declaration and related COVID-19 regulatory relief measures to the extent possible."

Truckers' CDL, Med Cert COVID Waivers Extended Through May

States given flexibility to further extend CDL, med cert expirations

In addition to extending the COVID-related hours of service waiver through the end of May, the Federal Motor Carrier Safety Administration is also extending the period for which states can choose to extend the validity of CDLs and CLPs through May 31. The waiver was set to expire Feb. 28.

The agency says many truck drivers have been unable to renew their CDLs or CLPs or provide medical certificates to their states due to staffing issues at state driver licensing agencies. Drivers have also been unable to make appointments for physical exams to obtain their medical certificate, FMCSA adds.

The extended waiver now permits but does not require states to extend the validity of CDLs and CLPs due for renewal since March 1, 2020. It also waives the requirement that drivers have a medical exam and certification, provided they have proof of a valid medical certification and any required medical variance issued for a period of 90 days or longer and expired on or after Dec. 1, 2020.

EPA Steps Up Efforts to Catch Emissions Tampering

The U.S. Environmental Protection Agency is in its second year of a four-year enforcement effort to catch truckers who are installing emissions defeat devices or otherwise tampering with emissions systems.

But catching the bad actors — many of them now operating below the agency's radar — is getting more challenging every day, an EPA enforcement official said of the national priority.

"Tampering among medium-duty and heavy-duty trucks is a significant concern to the agency," said Evan Belser, deputy director of EPA's Air Enforcement Division. "We are seeing information to suggest that it is prevalent and deserving of our attention, even though we aren't in a position to quantify it in precise terms."

"When it comes to the largest trucks on the road, the stakes are high," Belser said. "A tampered heavy-duty truck is a substantial source of excess oxides of nitrogen and particulate matter, and those pollutants harm people's health and they undercut state efforts to achieve ambient air quality standards."

So far, the effort has resulted in filing cases against a dozen diesel aftermarket defeat device sellers or fleets tampering with trucks, not including cases filed against other transportation modes, Belser said.

In a December agency "alert," EPA reminded truck and car owners that the Clean Air Act prohibits anyone from manufacturing, offering for sale, selling, or installing any part or component that bypasses or defeats emissions controls.

"Our recent enforcement alert highlights the agency has resolved civil and criminal enforcement cases involving tampering and aftermarket defeat devices for medium-duty and heavy-duty trucks," the agency said on Feb. 17. ([see recent and resolved cases](#))

As evidence of hefty penalties violators can receive: one company was slapped with a \$1.1 million fine for selling more than 5,500 truck aftermarket products; another, a hauling service for the oil and gas industry in Pennsylvania, paid a \$2 million penalty and one of its employees was sentenced to six months to prison.

To warn its members, American Trucking Associations last month sent a heads-up about the national priority effort, and the possible repercussions of installing or buying the aftermarket emissions defeat devices.

"My advice is be aware that this is happening, and do an assessment of your operations in your vehicles to make sure that you're not caught up in the web," Glen Kedzie, ATA's energy and environmental affairs counsel stated. "An enforcement case takes a long time and they (EPA) don't share what they're investigating, or tell you exactly where they are in the process."

Why do truckers do it, when they know it's against the law and that they can face large civil fines?

It's all about the cost savings, Kedzie said.

"You don't have to do emissions maintenance on a truck, or don't have to put on a DPF," Kedzie said, referring to a diesel particulate filter. "It increases mileage, it saves maintenance, and you prolong the life of the emissions equipment if you decide to later reconnect it."

But Belser said the trouble is that the devices are not only illegal, they also are unfair to truckers who abide by regulatory emissions requirements. "When they tamper they're putting people's health at risk, and undercutting those people that take the time and expense to do it right," he said. "Our goal is not to catch people, it's to prevent violations."

There are a range of modifications that can be done, Belser said. "Some are software only, and won't even require you to pick up a wrench. The tampering of primary concern for us involves not only retuning the engine but also the removal of filters and catalysts that are critical to reduce the amount of air pollution that leaves the stack. A lot of the tampering that we see can be done by most service technicians with basic proficiency."

Belser said it's getting more challenging day-by-day to catch violators.

The initiative has been "highly successful, but at the same time tampering will continue to be a persistent problem," he said.

Belser added, "In past years manufacturers and marketers of defeat devices were open and notorious about it. They weren't hiding it. Some of them, even in the heavy-duty sector, hid behind claims that the parts were used solely for competition motor sports and other pretexts for tampering."

To catch violators, the agency's investigator acts on tips they receive, monitor the internet looking for illegal defeat technologies on sale, and can even issue subpoenas requiring companies to testify.



Scans Could Cause Border Backups

A new U.S. law signed Jan. 5 would require every vehicle, truck and freight train that crosses into the United States from Mexico or Canada to be scanned and inspected at ports of entry with X-ray or similar technology.

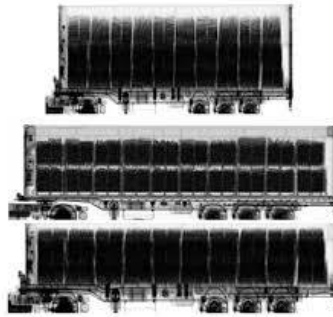
If enforced, the new scanning requirements could cause major traffic congestion at the San Ysidro Port of Entry, and cost Otay Mesa cargo importers millions of dollars a day.

In recent years, border agents have been increasingly using X-ray technology to detect illegal drugs and weapons. For example, Customs and Border Protection officers used an X-ray machine in June 2019 to detect 254 pounds of deadly fentanyl hidden in a tractor-trailer of cucumbers at the Nogales border-crossing in Arizona.

Currently, only about 1% of personal vehicles and 15% of cargo trucks entering through land ports are scanned, mostly at the U.S.- Mexico border, according to CBP.

The Securing America's Ports Act (HR 5273), signed into law by former President Donald Trump shortly before he left office, orders the Department of Homeland Security to develop and implement "a plan to expeditiously scan all commercial and passenger vehicles entering the United States at a land port of entry using large-scale nonintrusive inspection systems, such as X-ray and gamma-ray imaging systems, or similar technology," according to a summary of the bill.

The legislation calls for DHS to report to Congress the status of the X-ray systems currently in use, the estimated costs of upgrading those systems to reach a 100% scan rate and the anticipated impact on wait times for vehicles crossing the northern and southern borders. DHS has 180 days from the signing of the law to submit its report to Congress, which would make the report due approximately midsummer.



The idea to scan 100% of inbound cargo is not new, with attention to cargo security ramping up after 9/11, but it would be difficult to implement, according to experts. CBP has been using drive-through X-ray machines since 2008. The first machine, called a Z Portal, was inaugurated in San Ysidro.

The challenge is for CBP to balance the need to keep vehicles moving efficiently across the border with the task of checking for illegal drugs and weapons and complying with the new 100% scanning mandate. A 2019 CBP report highlights the time and cost of scanning about 15% of incoming commercial cargo.

On any given day, \$6.3 billion of legal cargo passes northbound through U.S. ports of entry. Any slight disruption in operations — or even just the threat of it — can significantly slow down cross-border commerce.

In 2019, severe traffic congestion caused by a shift in Customs agents to handle immigration surges cost millions of dollars a day and disrupted U.S. supply chains.

Thad Bingel, a former senior leader at CBP, said the agency may likely treat the goal as "aspirational" rather than a literal near-term target.

"They may come back and say, 'Yes, we can expand our scanning capabilities to 100% and here's what it's going to cost,'" said Bingel, adding it might not be necessary to scan every single vehicle that crosses the border.

MSHA Reports the First Fatalities of 2021

January 28, 2021

The [Mine Safety and Health Administration](#) reported that on Jan. 16, a miner was fatally injured while using a tool to remove a down-the-hole hammer. The drill motor turned unexpectedly, pinning the driller's leg between the tool and the drill mast. The accident took place at Red Dog Operations, Northeast Arctic, Alaska.

This is the first fatality reported in 2021, and the first classified as "Machinery."

MSHA recommends the following best practices to avoid this type of accident:

- *Establish and discuss safe work procedures before starting any task.*
- *Identify and control all hazards. Train all workers to recognize potential hazards and understand safe job procedures to eliminate hazards before beginning work.*
- *Follow manufacturer's procedures for using equipment, and monitor employees for compliance.*
- *Position yourself in a safe location away from potential "danger-zone" areas.*
- *Train miners to safely perform their tasks.*
- *Conduct equipment inspections and correct any defects affecting safety.*



February 1, 2021

The [Mine Safety and Health Administration](#) reported that on Jan. 19, 2021, a miner at Clyde Companies' Hansen Pit, Salt Lake County, Utah, backed a haul truck to the edge of a dump point that was over-steepened by a loader removing material at the bottom of the slope. When the edge of the bank failed, the haul truck traveled backwards and overturned, landing on the roof of the cab. The miner was fatally injured.

This is the second fatality reported in 2021, and the first classified as "Powered Haulage."

MSHA recommends the following best practices to avoid this type of accident:

- *Always dump material in a safe location. If ground conditions aren't reliable, dump loads a safe distance back and push the material over the edge.*
- *Never load material from the toe directly below an active dump point. This may lead to an over steepened and unstable slope.*
- *Never drive haul trucks beyond cracks on the top of the dump site.*
- *Always construct substantial berms as a visual indicator to prevent overtravel. Clearly mark dump locations with reflectors and/or markers.*
- *Always wear a seatbelt.*
- *Install advanced systems that restrain miners during roll-overs.*
- *Maintain communication between equipment operators and loaders.*
- *Train miners to use safe dumping procedures and recognize dumping hazards such as material slides and other unsafe conditions.*

February 22, 2021

The [Mine Safety and Health Administration](#) reported that on Feb. 8, a miner at Washington County Aggregates Inc, Washington, Mo., was fatally injured when he became entangled in a fluted tail pulley while attempting to shovel under an adjacent fluted tail pulley.

This is the third fatality reported in 2021, and the second classified as "Powered Haulage."

MSHA recommends the following best practices to avoid this type of accident:

- *Design, install and maintain area guards with signage and locks in addition to the physical barrier.*
- *Design and maintain secure guards so miners can perform routine maintenance on belt conveyor systems without contacting moving machine parts.*
- *Do not perform work on a belt conveyor until the power is off, locked out and tagged, and machinery components are blocked against motion.*
- *Never clean pulleys or idlers manually while belt conveyors are operating.*
- *Establish policies and procedures for conducting specific tasks on belt conveyors.*
- *Ensure that people assigned to work on belt conveyors are task trained, understand the associated hazards, and demonstrate safe work procedures before beginning work. Ensure all new miners receive new miner training and task training.*

Proactive Fall Prevention – *in just 2 minutes*

As the second leading preventable workplace injury, falls plague the workforce. The impact of fall related injuries is felt heavily in service-providing industries as well as transportation, utilities and the health care sector. According to U.S. Bureau of Labor Statistics, in 2018 falls to the same level resulted in 147,390 incidents causing 10 median days away from work per incident.



One of the top attributing factors in falls to the same level is balance. The National Safety Council articulates this causation as “the motion of the person generated by gravity following the individual’s loss of equilibrium.” Key to this assessment is the word “equilibrium”. Put simply equilibrium is our sense of balance. However, equilibrium is a result of complex physiological systems working in seamless concert with one another. Key components of these systems are the eyes (vision), inner ears (vestibular) and musculoskeletal system. Understanding the role each of these components plays helps us better train employees for successful fall prevention.

Component one: vision



We rely heavily on information relayed from the eyes to the brain to know where our bodies are in space. Inadequate visual input makes it difficult for the brain to properly assess depth and is detrimental to overall coordination. Without this critical feedback to our brain, it becomes much more likely for us to miss a step when ascending stairs, stumble when navigating uneven terrain or misjudge the clearance needed to step over a stationary object.

When available, company sponsored routine eye exams should be promoted to the employee population. This service is widely available for little to no charge and can be incorporated into your next employee health and safety expo. Free eye charts can also be accessed online along with instructions for use. It should be explicitly stated that any in-house eye exams are not intended to diagnose or treat. Further empower employees to see the world clearly with readily available eye-glass cleaners that can be used on personal eye wear and safety glasses.

Component two: vestibular



A major player in the synchronized process of balance during activities of daily living are the inner ears. Components of the inner ear key for balance are known as the vestibular system. A labyrinth of chambers and their carefully calibrated fluid levels constantly send signals to the brain about where our bodies are in space. Fluids in the inner ear and their movement, or lack thereof are largely responsible for these signals. When all is well this system will go unnoticed. When triggered, a variety of balance related issues may emerge. To highlight the sensitivity of the vestibular system, imagine sitting in swivel chair and being spun around rapidly multiple times. Upon standing up from the chair, we can visually confirm and physically feel that we are stationary but will likely still feel a phantom spinning sensation due to fluid disturbances within the vestibular system.

Educating team members about the relevance inner ear health is key for fall prevention. Inner ear infections, vertigo as well as other illnesses like upper respiratory infections can be detrimental to balance. Side effects of prescription medication and dehydration are also known to influence the vestibular system and negatively impact equilibrium. Employees should be encouraged to communicate symptoms that pertain to equilibrium to a supervisor for further assessment. These include even brief sensations of spinning, lightheadedness, dizziness, etc.

Component three: musculoskeletal



Comprised of the body’s muscles, bones, joints and connective tissues - the musculoskeletal system is constantly challenged to keep pace with demands of daily life. Injuries to any component of the musculoskeletal system can directly or indirectly contribute to lapses in equilibrium leading to falls. Prior or nagging injuries including back pain or a self-proclaimed bad joint should be properly considered. Ailments like these may place the employee at an increased risk for a fall or other injury. When possible, proper rehabilitation is ideal. In the case that full injury rehabilitation is not an option, the individual’s ability to safely complete routinely required tasks should be considered. Note that the human body’s tendency to compensate for pain or restricted movement is usually to overcompensate with asymmetrical movements that protect the injury. Limping, a shuffling gate, even limited range of motion in a shoulder can create higher risk of injury.

Strength, stability, agility and flexibility are all attributes of the musculoskeletal system that can be evaluated and trained for improved outcomes. The development of relevant physical assessments that mirror routine physical demands allows hiring managers insights to an individual’s competency in their role. These initial assessments and ongoing reassessments serve to enforce cultural expectations for employee’s personal commitment to their well-being. Task specific training and treating employees as “industrial athletes” is an excellent way to reduce injuries and improve productivity.

2 minute fall prevention drill *



1. Begin standing upright with weight evenly distributed to both feet. Shift weight to the right foot as much as possible. Left foot can maintain a point of contact with the ground or hover over the ground.
2. Balancing on the right foot, close the eyes removing visual input. Feel the effect that removing visual input has on stability and balance. Aim to keep the eyes closed for 20 seconds.
3. With eyes still closed, still balancing on the right foot, slowly turn the head side to side then up and down. Repeat this movement in varied sequences for 20 seconds, causing a disturbance to the vestibular fluid of the inner ear.
4. Eyes remain closed, continue to balance on one foot. Hinge at the hip with back flat to lean slightly forward as if picking up an object from a low platform. Moving safely, vary the direction of your reach from side to side and overhead for 20 seconds.
5. Open eyes, both feet return to the ground, recover. Repeat this process on the left leg.

** This exercise should be attempted by individuals who do not have known health risks that increase susceptibility to fall, injury or illness. The drill is intended to be completed in a safe location where the individual can easily brace themselves on a nearby stationary object if needed. The drill should be stopped at any time in the case that the individual performing the drill or a supervisor feels these movements are placing the individual at risk of injury or illness.*

Expand daily warm-ups with this drill, or introduce it in your next safety meeting. The step by step removal of key equilibrium components will help demonstrate the importance and sensitivity of these systems to employees. The practice of maintaining balance when tested will translate to improved physiological outcomes that reduce the risk of falls within your workforce.

From all of us at MJS Safety

Please...

**WORK SAFE
BE SAFE
STAY HEALTHY**