



## Important Message to our fellow Business Owners, Clients and Communities

Our physical office is now open at full capacity to serve our clients. Social distancing protocols, class size limitations, and pre-entry screening will be reinstated if they are recommended due to increasing infection levels. We continue to adhere to the following recommendations:

- Our staff disinfects all common surfaces after each class
- Masks are optional for those who wish to continue wearing them.
- 1st Aid/CPR courses will continue to adhere to not sharing mannequins during class.
- Respiratory fit tests, drug test collections, and alcohol breath collections will be conducted according to the current best practices.

If a student is ill or showing symptoms of respiratory illness, we ask that they stay home and reschedule class attendance, or for those classes that allow it, attend remotely.

Our sincerest gratitude for your business and the opportunity to serve you.

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*Articles in the 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: [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](https://www.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.

▶ [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 1<sup>st</sup> 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.*

## OSHA / CONSTRUCTION NEWS SUMMARY

▶ **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...](#)

▶ **OSHA's Weekend Work Initiative**

*'Weekend Work' initiative will identify safety concerns in 10 counties* [read more...](#)

▶ **OSHA Targets Roadway Construction Activities for Silica Exposure**

*...specifically milling activities, to identify and reduce worker exposure to silica dust.* [read more...](#)

▶ **Safety Training Should Actually Make the Workplace Safer**

When we look at the **safety training** our organization delivers, we should ask— are we compliant, are we going to get citations, do the attendees like the training? [read more...](#)



▶ **What is the Current State of Drug Testing Programs in Today's Workplaces?**

Drug testing in the **workplace**, especially in the manufacturing industry, has become a **common part** of pre-employment screening and health/safety measures in the **workplace...** [read more...](#)



▶ **Report: Drug Use in Construction Industry Holds Steady with Marijuana on the Rise**

The COVID-19 pandemic did not dampen workforce **drug testing positivity** for marijuana, which continued to **increase** last year in the general U.S. workforce... [read more...](#)

▶ **OSHA Rule Proposal to Clarify Handrail, Stair Rail System Requirements in General Industry Walking-Working Surfaces Standard** [read more...](#)



▶ **Managing Heat Stress**

*Workers who work in hot environments or are exposed to extreme heat may be at risk for heat stress.* [read more...](#)

▶ **Lessons Learned: Launching a Safety Incentive Program**

*Several issues can arise when working to launch a safety incentive program.* [read more...](#)

▶ **COVID-19 and its Impact on the OSHA Inspection Process**

There are a number of best practices that an **employer** should follow when faced with any **OSHA** inspection. [read more...](#)

▶ **The Big-Ticket Question:** *Can (or should) employers require the COVID-19 vaccine of employees in the workplace?* [read more...](#)

▶ **OSHA's New COVID-19 Standard Lets Most Industries Set Their Own Safety Protocols**

*The new standard seeks to protect healthcare workers while allowing other industries, including construction, to set protocols specific to their workplaces.* [read more...](#)

▶ **Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace**

This guidance is intended to help employers and workers not covered by the **Occupational Safety and Health Administration's COVID-19 Emergency Temporary Standard...** [read more...](#)

## TRANSPORTATION NEWS SUMMARY

### ▶ July's Operation Safe Driver Week looking for speeders

This year's **Operation Safe Driver Week** will be held **July 11-17** [read more...](#)



### ▶ FMCSA Delays Electronic Medical Certification Rule

The **FMCSA** published a **final rule** on June 22nd that **officially delays** the **compliance date** for a system that will **streamline communication** between state **driver's licensing** agencies and **FMCSA** regarding **drivers' medical certifications**. [read more...](#)

### ▶ Fleets Need to Track Three Kinds of Maintenance Costs

There is that old adage, "If you want to improve something, you first have to measure it." [read more...](#)



### ▶ DOT Outlines Near-Term Regulatory Priorities

Automatic **emergency braking**, **Drug and Alcohol Clearinghouse** revisions, a **revision** to the **vision standard** for drivers and more are among a bevy of rules the **DOT** plans to work on over the **next year** and **beyond**. [read more...](#)

### ▶ FMCSA Shuts Down Mexico-Based Trucker After Fatal Crash, DUI Charges ... [read more...](#)

### ▶ Fleet Owner Ordered to Pay \$632k for Falsifying FMCSA Documents

*Rhode Island fleet owner ordered to pay restitution* [read more...](#)

### ▶ Bevy of Trucking Groups Call for Removal of Insurance Hike from House Highway Bill

*OOIDA-led coalition decries insurance hike inclusion in House highway bill* [read more...](#)

### ▶ Drug and Alcohol Violations in 2021 Outpacing 2020 Numbers Through First Quarter... [read more...](#)

## MSHA NEWS SUMMARY

### ▶ Safety Around Conveyors



*A Thorough Risk Assessment By Trained Professionals Is The Ideal Way To Identify Hazards And Guard Against Accidents.* [read more...](#)



### ▶ MSHA Reports 15th Fatality of 2021

**MSHA** reported that on **June 7**, a miner at a **construction sand and gravel operation** in Crosby, Texas, entered the **top** of a **primary feed hopper** to break up and remove a **large rock**. [read more...](#)

## MONTHLY SAFETY & HEALTH TIP NEWS SUMMARY

### ▶ What's the Significance of UL Classification in PPE?

Companies in the market for personal protection equipment (PPE) should look for products that are UL classified where this is applicable. [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 3<sup>rd</sup> 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)

### DRUG & ALCOHOL REASONABLE SUSPICION SUPERVISOR TRAINING COURSE

(DOT/FMCSA/PHMSA)

The Reasonable Suspicion for Drug & Alcohol training course is required for all DOT regulated supervisors to assist them with recognition of drugs and alcohol in the workplace. Topics include drug use and abuse, alcohol use, proper steps to conduct a reasonable suspicion observation, and reasonable suspicion testing requirements and documentation.

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

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

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

• SEE [CURRENT INFORMATION](#) FOR Distance Learning & Video Conference classes

- \*PEC Safeland Basic Orientation: **NEW 2021 SAFELAND:** July 12, 22; 8 – 4:30;  
*This class available through video conference instructor led distance learning through 2021 - only upon request*
- \*First Aid/CPR/AED/BLOODBORNE PATHOGENS (We offer MEDIC FIRST AID): *In Person Classes:* July 7, 26; 8 – noon;  
*This class is also available for blended learning (online) with remote or in-person skills assessment*
- \*Hydrogen Sulfide Awareness [*ANSI Z390 -2017 Course*]: July 7, 26; 12:30 – 4:30;  
*This class available via Instructor Led video conference*
- \*Fall Protection Training (4 hour Awareness and 8 hour Competent Person available): July 13;
- \*Confined Space Entry Training: July 1, 14;  
*Attendant, Supervisor, Competent Person & Entrant [NUCA Course]*
- \*Confined Space Rescuer (2 day course): July 2, 15;  
*Students must complete the Confined Space course to be eligible for the 2nd day Rescue Course*

[ For any last minute schedule updates, go to [www.mjssafety.com](http://www.mjssafety.com) ]

► NEED ANY OF THESE CLASSES IN SPANISH? CONTACT [carriejordan@mjssafety.com](mailto: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

#### — 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](http://www.mjssafety.com)  
Jeremy  
720-203-6325  
Carrie  
720-203-4948

### 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 for current information

### 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](#).

### OSHA's Weekend Work Initiative

*'Weekend Work' initiative will identify safety concerns in 10 counties*

As work at construction project sites increases in Colorado's Front Range, more workers may find themselves exposed to hazards.

This *'Weekend Work' initiative* is the result of increased construction work which statistically has increased workers' exposure to falls, trenching and other excavation hazards. Over the last two years, six workers have suffered fatal falls, and nearly a dozen excavation collapses and trenching incidents have led to the deaths of three workers in Colorado. Typically, inspections do not occur on weekends but, more and more, companies are choosing to work on weekends to keep up with the high demands.

To make these work sites safer, the U.S. Department of Labor's Occupational Safety and Health Administration has implemented a *'Weekend Work' initiative* in which federal workplace safety and health inspections will occur randomly on weekends in *Arapahoe, Douglas, Jefferson, El Paso, Adams, Boulder, Broomfield, Denver, Larimer* and *Weld counties*. OSHA's area offices in Denver and Englewood will continue these inspections into the fall of 2021.

"Our *'Weekend Work' initiative* will identify and address construction-related hazards at worksites in counties along the Front Range on days when worksites often go unchecked," said OSHA Acting Regional Administrator Nancy Hauter in Denver. "This is a proactive effort to identify hazardous worksites and to ensure workers end their shifts safely."

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.

# OSHA Targets Roadway Construction Activities for Silica Exposure

...specifically milling activities, to identify and reduce worker exposure to silica dust.

In Feb. 2020 **OSHA** revised its [National Emphasis Program](#) (pdf) to identify and reduce worker exposure to silica dust. According to the program, asphalt plant operations will not be targeted unless local knowledge or data supports a focused effort. However, **OSHA** will target roadway construction activities, specifically milling activities.



In the road construction, paving and asphalt production industries, the primary source of airborne crystalline silica exposure occurs from fracturing aggregate or rock. This occurs during milling, sawing, crushing and transporting of asphalt, concrete and rock.

With **OSHA's** enforcement of the **Silica Rule** for roadway construction activities, companies engaged in roadway construction must be aware of the potential for exposure to silica associated with common roadway construction activities, mitigation strategies and technologies, and reporting, monitoring and other regulatory obligations.

There are two primary ways of limiting exposure – vacuuming up the dust or suppressing it with spray down system that utilizes a surfactant. The asphalt industry has been discussing limiting silica exposure since 2003, when the **National Asphalt Pavement Association (NAPA)** led the formation of a **Silica/Milling Machine Partnership** to evaluate milling machines and silica exposure hazards to protect workers surrounding these operations. This led to a redesign of the water system in the machines. Some time was spent trying to figure out how to redesign the nozzle systems internal to the machines to get at the source of the dust.

While some new equipment was already set up with a vacuum system, most existing equipment needs to be up-fitted or have a dust suppressing surfactant added to a water spray down system. Up-fitting dozens of pieces of existing road construction equipment with a vacuum system however is unrealistic and costly for most companies so going the dust suppressant route makes the most sense in the short-term.

Asphalt contractors should review their **Silica Rule** compliance efforts with a focus on controls for milling machines and power brooms, as well as dusty asphalt plant activities. In some situations, respiratory protection may be needed.

**MJS Safety** offers competent person for silica training, sampling and other mitigations. Call [Carrie \(720-203-4948\)](#) or [Jeremy \(720-203-6325\)](#) to schedule training.

## Safety Training Should Actually Make the Workplace Safer

When we look at the **safety training** our organization **delivers**, we should ask— are we **compliant**, are we going to get citations, do the attendees like the **training**? But there is one **uncomfortable** question that is not asked: **Are we wasting everyone's time**?



The goal of **safety training** is to increase **attendees' knowledge** so they perform safe work. If safety training is not as good as it should be, it can easily be a **time-wasting activity** that checks boxes but does not actually **create a safer workplace**.

How can we **build** and deliver **better safety training**? A good place to start is to consider **four principles**:

### Teach the Right Things

**Long before** a safety trainer opens **PowerPoint** to start creating slides, he or she needs to **first assess** what needs to be **taught**. Two questions **determine** what information a **facilitator** should teach: **First**, *what does the audience need to know?* **Second**, *what do they already know?* The **training** should be based on the **gap between** those two answers. For example, the **maintenance team** needs to know how to **lock out** and **tag out** the newly installed compactor before **performing work**. They **already know** the company **lockout/tagout (LOTO)** policy, the safety principles behind **LOTO**, and the equipment-specific **procedure** for the other equipment in the **facility**. While it may be desirable to include a refresher on **all things LOTO** in this training, it may be more **successful** to provide training on just the **newly installed compactor**. **Remember, more words and more information does not necessarily equal more knowledge.**

### In the Right Way

Next, **consider** the best methods for **delivering the training**. There are benefits and **limitations** for live virtual learning, **online courses**, and in person. Different topics **lend themselves** to different methods. Consider **not just lectures** but also small groups, breakout rooms, **role-playing**, brainstorming, hands-on practice, and **case studies**. Adults learn in **different ways**, and knowing the best times to use **different methods** will make training better.

### With the Right People

**Adult learners** need their experience to be **acknowledged** and respected. In **safety training**, this can be used to **great advantage**. Consider using veterans to help **develop** and, yes, even deliver specific **safety-related training**. People with **extensive experience** with a process or task **lend clout** to the rules and can help get buy-in from newer employees. Additionally, those **veterans** may learn even more by **teaching**.

### Check to See if Safety Training Worked!

Remember, **safety training** is done so **people will learn** and then **change their behavior**. After safety training, **organizations must determine** if that has happened. Knowledge can be checked by using pre- and post-tests. **Behavior change** can be assessed by **conducting observations**.

If **safety training teaches** the right things in the **right way** and with the right people, and we **confirm** that it worked, then it has been a **great use of time and improved safety**.

**MJS Safety** can make sure you're getting the training you want, need, and most importantly, require!

# What is the Current State of Drug Testing Programs in Today's Workplaces?



Drug testing in the **workplace**, especially in the manufacturing industry, has become a **common part** of **pre-employment screening** and health/safety measures in the **workplace**, which may include random, **post-accident**, and reasonable-suspicion **testing**. That being said, many employers are **re-thinking** their testing approach in **light of legal** changes and societal shifts related to drug use and, more **specifically**, marijuana use. In recent years, as the number of states legalizing **medical** and/or **recreational marijuana** has grown, manufacturers have been grappling with **how to comply** with their legal **obligations** while also balancing the need to **maintain** a safe workplace, attract **qualified applicants**, and avoid potentially **unnecessary** pre-hire screening.

In recent years, there has been a **growing shift** in the United States in **favor of legalizing marijuana** use for medical and/or **recreational purposes**. To date, 36 states and the District of Columbia have **legalized medical marijuana**, and 17 states and the District of Columbia have legalized marijuana for **recreational** purposes; **federal law**, however, has not changed. In 2019, New York City went even further and **passed a law** prohibiting employers from **conducting** pre-employment drug testing for marijuana and **tetrahydrocannabinols (THC)** with exceptions, including for **safety-related positions**, among others. Since then, several other states and, recently, one **municipality** have passed or **considered passing** similar laws.

While the **recent** and anticipated changes in **pre-employment** drug testing laws **arguably** concern workplace-related **conduct** and implications, there are also both old and new laws **prohibiting employers** from making **employment decisions** based on lawful off-duty conduct, which can include **marijuana use**. For example, Connecticut, Massachusetts, New York and Rhode Island, have **enacted** certain employment **protections** for off-duty use of **medical marijuana** for valid **medical reasons**.

Other **states**, such as New York, generally **prohibit discrimination** against employees for **lawful**, off-duty conduct, which in New York explicitly includes most **recreational marijuana** use. Accordingly, in states where recreational **marijuana is legal**, employers might be prohibited from making adverse **employment** decisions in response to a **drug test** that is positive for **marijuana** that was consumed off-duty. **Complicating** matters is that, despite this **new trend**, there are many industries wherein **drug testing** for certain employees is **legally required** or critically necessary, including as it relates to safety- or **security-sensitive** positions (*e.g., transportation, manufacturing involving machinery and power tools, etc.*), many of which **fall under** exceptions to the **various laws** being passed.

**Based** on these changes in state and **local laws**, many employers are **re-thinking** whether marijuana should be **included** as part of workplace **drug testing** in some or all of the **states/municipalities** in which they do business, whether pre-employment **drug testing** is needed at all, and how to respond to positive test **results** for **marijuana**. These decisions often hinge on whether the **positions** at issue are **safety-sensitive** or governed by laws that **may require** a specific **drug testing** program, and on the **particular** workforce. Regardless of their **approach** to drug testing, **employers** should ensure that **employees** are not under the **influence** of drugs or alcohol while they are **working** and that managers are **trained** to identify when **drug/alcohol testing** may be required based on **reasonable** suspicion.

Employers may wish to **consider consulting** competent **legal counsel** to understand the **legal obligations** in the states and **municipalities** where they conduct business and the practical considerations that **may impact** their decisions related to **workplace drug-testing** programs.

# Report: Drug Use in Construction Industry Holds Steady with Marijuana on the Rise

*In the construction industry, the overall positivity rate decreased from 4.2% in 2019 to 4.1% in 2020. Positives for marijuana increased from 2.2% in 2019 to 2.5% in 2020.*



The COVID-19 pandemic did not dampen workforce drug testing positivity for marijuana, which continued to increase last year in the general U.S. workforce, according to a [new analysis](#) recently released by Quest Diagnostics. This study is thought to be the first large-scale analysis of de-identified results of laboratory

workforce drug tests performed during the COVID-19 pandemic.

As positivity for most drug categories, other than marijuana, declined or remained flat in the combined U.S. workforce over the past five years, amphetamines (which includes methamphetamine) persisted at 1.1 percent positive each year.

"Driven largely by surging rates of marijuana general U.S. workforce positives and steady rates of amphetamines positives, the rate of drug positivity remained stubbornly high despite seismic shifts to the workplace caused by the COVID-19 pandemic," said Barry Sample, Ph.D., senior director of science and technology, Quest Diagnostics. "However, as we see upticks in hiring and many employees returning to the workplace, it is important that employers consider workforce drug testing as a way to keep the workplace, their customers and the community safe."

"Impairment, whether it be by drugs, alcohol, fatigue or stress, decreases the safety of the workforce," said Jenny Burke, senior director of impairment practice, National Safety Council. "The DTI results, reflecting decreases in many drug categories, occurred in a unique year. Even though these are down, we must

continue to educate people about the impairing impacts of these substances. And, as states and the federal government consider changes to the legality of marijuana, we can't take for granted that they also understand the impairing impact of THC. The safety of people who share the roadways and workplaces with impaired people needs to be a priority."

- See an [interactive map](#) with positivity rates and trend lines by three-digit zip code in the United States.
- See the full Quest Diagnosis [analysis](#).

**Table 1. Overall Positivity Rates  
Urine Drug Tests - General U.S. Workforce**  
(More than 17 million tests from 2016 - 2020)

Industry	2016	2017	2018	2019	2020
Accommodation and Food Services	4.7%	4.6%	4.9%	5.1%	6.2%
Admin Support, Waste & Remediation Services	4.4%	4.5%	4.6%	4.7%	5.1%
Construction	4.0%	4.1%	4.1%	4.2%	4.1%
Educational Services	3.2%	3.1%	3.1%	3.2%	3.2%
Finance and Insurance	2.6%	2.7%	2.6%	2.8%	3.3%
Health Care and Social Assistance	4.7%	4.6%	4.6%	4.5%	4.8%
Information	4.1%	3.9%	3.6%	3.7%	3.8%
Manufacturing	3.4%	3.5%	3.7%	3.8%	4.0%
Mining	3.5%	3.8%	3.7%	3.5%	3.1%
Other Services (except Public Administration)	4.2%	4.6%	5.2%	5.5%	5.7%
Professional, Scientific, and Technical Services	3.5%	3.2%	3.2%	3.3%	3.8%
Public Administration	3.5%	3.3%	3.5%	3.3%	3.3%
Real Estate Rental and Leasing	4.7%	4.5%	4.5%	4.8%	5.0%
Retail Trade	5.1%	5.2%	5.4%	5.5%	6.2%
Transportation and Warehousing	3.1%	3.5%	3.9%	4.0%	4.4%
Utilities	3.0%	2.8%	2.9%	3.4%	3.5%
Wholesale Trade	3.9%	4.1%	4.3%	4.5%	5.2%



## US Department of Labor Announces OSHA Rule Proposal to Clarify Handrail, Stair Rail System Requirements in General Industry Walking-Working Surfaces Standard

The U.S. Department of Labor's **Occupational Safety and Health Administration** is proposing updates in the [handrail](#) and [stair rail system](#) requirements for its general industry, **Walking-Working Surfaces** standard.

OSHA published a final rule on walking-working surfaces and personal protective equipment in November 2016 that updated requirements for slip, trip and fall hazards. The agency has received numerous questions asking when handrails are required, and about the height requirements for handrails on stairs and stair rail systems.

This proposed rule does not reopen for discussion any of the regulatory decisions made in the 2016 rulemaking. It focuses solely on clarifying some of the requirements for handrails and stair rail systems finalized in 2016, and on providing flexibility in the transition to OSHA's newer requirements.

Follow the online instructions at the [Federal eRulemaking portal](#) to submit comments. Submit comments by July 19.

For more information, read the [Federal Register notice](#).

Learn more about OSHA's [General Industry Walking-Working Surfaces and Fall Protection standards](#).

# Managing Heat Stress

**Workers who work in hot environments or are exposed to extreme heat may be at risk for heat stress. Heat stress includes a series of conditions where a person's body is under stress from overheating.**

Heat stress causes thousands of worker illnesses and some worker deaths each year from working in extreme heat or humid conditions. Work that has a high potential for causing heat stress usually involves hot and humid conditions outdoors or hot indoor environments. Heat stress can result in heat-related illnesses that can affect anyone, regardless of age or physical condition. Some workers may be at higher risk than others if they have not built up a tolerance to hot conditions, or if they have certain health conditions.

**There are two major heat-related illnesses that you need to know: Heat stroke and Heat exhaustion**

Heat stroke is the most serious heat-related illness. It happens when your body cannot control its temperature and is unable to cool down. Your body's temperature can rise to 106°F or higher within 15 minutes.

**Heat exhaustion is the body's response to loss of water and salt from heavy sweating. Signs of heat exhaustion include:**

- Heavy sweating
- Weakness
- Headache
- Irritability
- Nausea
- Thirst
- Dizziness

**Heat stroke requires immediate medical attention. It can result in death or permanent disability. Signs of heat stroke include:**

- Red, hot, dry skin
- High body temperature
- Confusion
- Fainting
- Convulsions

Other heat-related illnesses include heat cramps and heat rash. Heat cramps can occur in the muscles used for work and are caused by the loss of body salts and fluid during sweating.

Heat rash is skin irritation caused by sweat that does not evaporate from the skin.

Heat can also increase the risk for other injuries that can result from sweaty palms, dizziness, and fogged-up safety glasses. Accidental contact with hot surfaces or steam can cause burns.

**Heat stress is preventable. Develop safe work practices to protect workers who are at risk for heat stress, including:**

- Training workers about the hazards that lead to heat stress and how to prevent them.
- Work scheduled to avoid the hotter parts of the day. And/or to minimize exposure to the heat.
- Frequent breaks and extra access to water.
- Areas to cool down.
- Checking on workers to ensure they don't overdo it in the heat.

It's important to develop an acclimatization, or adaption, program that allows workers to gradually adapt to the heat by slowly increasing workloads and allowing more frequent breaks for workers new to the heat and those that have been away from work.

Another way to prevent heat stress is using personal protective equipment (PPE) that helps cool workers down, such as reflective clothing, body cooling ice vests, water-cooled garments, and personal cooling systems.

**Other measures you can take to protect yourself from heat stress include:**

- Blocking out direct sun and other heat sources
- Drinking plenty of fluids. Drinking often and before you are thirsty. Drinking water every 15 minutes.
- Avoiding beverages that contain alcohol or caffeine
- Wearing lightweight, light-colored, and loose-fitting clothes

If you suspect a coworker is experiencing heat stress, call a supervisor for help. If a supervisor is not available, call 911.

Have someone stay with the worker until help arrives and move the worker to a cooler or shaded area. If the worker is not alert or seems confused, call 911 immediately and apply ice as soon as possible.

## In Conclusion

Heat stress is a serious hazard for workers in hot environments, but it is preventable. Know the signs and symptoms of heat-related illnesses, monitor yourself, and use the buddy system.



[Click Here for OSHA Quick Card](#)

# Lessons Learned: Launching a Safety Incentive Program

**Several issues can arise when working to launch a safety incentive program. Here's how you can sidestep the problems to ensure an effective program.**

For at least a century, safety incentive programs have often been misunderstood and misused. Many have delivered positive results, but some have produced unintended consequences.

Quite often, companies design their programs in reverse. They begin with the fun part—the “What will we give them?” question. Will it be gift cards, T-shirts, pizza parties or cash?

**A more effective approach** is to start with the “why” question, then the “how” question and finish up with the “what” question.

- *Why are you offering these awards? What are the critical behaviors?*
- *How are you going to deliver your recognition program?*
- *How are you going to communicate to employees the launch of a program and the reasons for it?*
- *How are you going to ensure that it is equitable, that everyone receives positive consequences for achieving desired behavior change?*
- *What type of incentive rewards are you going to offer?*

## **Problem: Lack of Positive Reinforcement Leadership Skills**

Another question that should be considered: “How will we present the award?” Without training in positive reinforcement skills, even the best gifts can fall flat on their face, doing more harm to the employee/leader relationship than good.

### **Three examples of this are:**

- *Some years ago, a company hit a designated safety milestone, triggering an incentive reward. One of the company supervisors was instructed to present the gift to workers and thank them for their achievement. Instead, he told one employee, “Here’s your toaster, now get back to work.” He damaged not only the perception of that employee, but also the other 800 people who heard the story by that afternoon.*
- *A large railroad firm reached a targeted safety goal and sent leather jackets to employees by mail. One of those employees complained, “If my boss doesn’t care enough about me to present this gift to me in person, it isn’t worth much to me.” He promptly tossed his \$200 jacket in the trash.*

- *“I’ll never ever hand out another safety incentive for the rest of my life,” said the corporate safety director for a large railroad company. Why? Well, when the company hit their milestone, one employee won an expensive television and he was eternally grateful, but the other 699 employees got nothing from the exchange.*
- *These scenarios play out again and again. A company sets a safety goal, achieves it, holds a drawing or raffle and selects a winner. When one person wins, everyone else loses. It’s true that prize drawing incentive programs are inexpensive (since only one person wins), but what we know from behavioral science is that the most powerful consequences are positive, immediate, and certain.*
- *The most successful recognition strategies tick all the boxes from behavioral science. The reward is positive (as perceived by the employee), immediate (occurs within ten seconds or less of the behavior) and certain (every time I repeat the behavior, I am certain something good will happen).*

## **Solution: Conduct the WIIFM test**

- *When an incentive program singles out one winner and punishes the rest of the workforce, it is doomed to fail. It fails the all-important WIIFM test: What’s in it for me? When the answer is nothing, when the incentive goes to only one employee, the effort to promote commitment to safety backfires. The unintended consequence: the workforce is less engaged in safety, attitude and morale sag, behaviors don’t change and apathy and resistance to safety efforts increase.*

## **Problem: Tax implications & Gift Card Woes**

Another common mistake is failing to understand the tax implications of the incentive award, which can doom an incentive program to an untimely death and also damage morale.

- *For example, one company decided to give away an expensive Harley-Davidson motorcycle as the incentive for reaching a safety milestone. A raffle for the motorcycle would be held if employees worked six months without an injury. The goal was reached, the raffle was held and one employee rode away on his new Harley. When the payroll department got wind of the award, they said, “Wait a minute, who’s paying the income tax on that \$15,000 Harley?” The company docked the winning employee for the tax. Furious upon learning that he suddenly owed the government several thousand dollars, he filed a grievance with his union. Ultimately, the company paid the tax for him, which cost them \$11,000 additional dollars for the “payroll gross up.”*

- Another company gave away one million dollars in Visa gift cards, only to learn that their income tax hit would be \$992,000 through a payroll “gross up.” Even worse, later they found research from Kiplinger which states that 30 percent of gift cards are never redeemed by the employee.

#### **Solution: Do Your homework**

- Do thorough research and consider getting outside help to navigate around the potholes of unexpected tax implications and lack of gift card utilization.

#### **Problem: Lagging Indicator Incentives**

- In the 1980s, the most common approaches by far were lagging indicator-based safety incentive programs. Simply put, the company rewards employees for going a period of time without any reports of injuries.
- During the years Dr. David Michaels headed OSHA (2001 – 2009), the agency went public with its position that lagging indicator incentive programs were often counter-productive. The agency argued that more likely than not, injuries were not reduced—they were hidden. In my experience, the only real behavior change that occurs with safety incentive programs based on lagging indicators is what gets reported. Sure, your injury numbers will probably go down, but after the program ends, injuries will resurface and your case rate will spike back up.

#### **Solution: Select the Right Leading Indicators**

- Most forward-thinking companies have transitioned away from lagging indicator incentives. They are using leading indicators to promote positive behavior change. Sadly, though, many end up rewarding the wrong thing.
- Successfully completing a safety crossword puzzle is not a behavioral consequence that will reduce injuries. Just showing up for safety training class isn’t enough either. What knowledge gain can we measure? Did we engage in meaningful two-way conversation?
- Be careful in choosing the behaviors you want to reinforce and reward. Perhaps you want employees to report more near-hit incidents—a viable goal. However, be careful not to focus only on employee behaviors and letting supervisors and senior leaders off the hook. You want to positively reinforce their safe behaviors, too, but leader behaviors are different.

*Leadership behavior matters more than worker behavior—it has a more widespread impact. You need positive behaviors top to bottom in an organization to create sustainable safety values, beliefs, norms and a positive safety culture.*

#### **Trapped by Old School Lagging Incentives**

- Many safety pros inherit safety incentive programs based on lagging indicators. They fear changing to leading indicators will result in an uptick in injury cases. This fear is unfounded. In more than 30 years and over 1,000 transitions from lagging to leading metrics, I have never seen employee injuries increase after removing a lagging indicator incentive system. I have, however, seen injury reporting increase, which is a good thing. If you get it reported, you can fix it. If it stays hidden, the alligator is just waiting in the swamp to find his next victim.
- Often companies need outside help, a fresh pair of eyes from a third party, to identify what critical behaviors should be targeted for positive reinforcement. The view from inside the culture bubble is important, but equally important is the view from the outside looking in. To sum up these lessons learned, the most important part of planning for a successful safety recognition program is to address the why, the what and the how questions.
- And remember, the WIFM issue relates not only to employees, but organization leadership as well. Leaders reinforce critical positive behaviors for two reasons. First, they truly care about sending every employee home healthy and without harm every day. Second, safety is good for business. Many companies say for every dollar invested in an effective safety recognition program, the return on that investment is three or four times the initial outlay. Injuries and related costs are reduced, and productivity and quality increase, along with profits.
- Think about these lessons learned before you launch your next safety incentive program. There’s no need for history to repeat itself. Spare yourself the problems and achieve the results you want.

May 27, 2021

## COVID-19 and its Impact on the OSHA Inspection Process

There are a number of best practices that an **employer should follow** when faced with any **OSHA** inspection. Like most best practices, they start with **advanced planning** so that everyone is **prepared** when the inspector shows up. Employers should consider identifying and **training representatives** to manage the **inspection** from start to finish. These representatives should be among the **first on the scene** to greet the inspector, **determine the reason** for the inspection, get a copy of the complaint, accompany the **inspector on the visit**, document the inspector's findings, **provide requested documents** in a timely fashion, and be **prepared** for follow-up.

Over the past year, **COVID-19** has brought **significant changes** both to our workplaces and to **OSHA's** inspection and enforcement focus. The **inspection process** was and continues to be changed by **COVID-19**. It has added another layer of **health and safety considerations** for employers in general, and these considerations carry over to the **inspection process**.

As **OSHA** makes clear in its **COVID-related [Updated Interim Enforcement Response Plan and National Emphasis Program \(NEP\)](#)**, it continues to conduct in-person investigations during the **pandemic**. Many of these inspections (*though not all*) will be focused on **COVID-19** related concerns. Some **inspection procedures** may be modified, with certain interviews and requests for documents taking place **remotely or electronically**, but employers **should be prepared** for in-person inspections related to **COVID-19**. The recently issued **NEP** indicates that **OSHA** will continue to prioritize inspections of workplaces that have experienced **COVID-19** related fatalities or hospitalizations.

But **OSHA** also develops priorities for **programmatic inspections** related to **COVID-19**. **OSHA's** primary enforcement target continues to be the health care industry, but there are **several manufacturing industries** included on the target lists for programmatic inspections, including chemical, paper, plastics, and **rubber product manufacturing**; industrial machinery manufacturing; food and beverage manufacturing; and **certain transportation sectors**.

Given this focus, it is important for **all employers** to understand **OSHA's** guidance related to **COVID-19**. As of the writing of this article, **OSHA** has not yet adopted an **emergency temporary standard** with regard to **COVID-19**. However, **OSHA** has made it clear that it will use **standards** in the existing statute and regulations to **support the issuance** of citations for **COVID-19 workplace deficiencies** (*and it has done so*).

**OSHA** has issued a series of **COVID-19** related guidance memos since the start of the pandemic. The guidance has shifted as the **progression** and impact of **COVID-19** has evolved. Along with general guidance applicable to all employers, **OSHA** has issued **industry-specific guidance** to elaborate on particular risks and protections. It has also issued **COVID-19** related guidance specific to **certain industries** to supplement the **general guidance**.

Since the pandemic began, **OSHA** has consistently recommended that **employers develop** and implement a **COVID-19 prevention program** to mitigate the spread of **COVID-19** in the workplace. This prevention program should **include certain elements**:

- Performance of a hazard assessment (something that, in many workplaces, will need to be reviewed and periodically updated);
- Identifying and implementing measures to limit the spread of COVID-19 in the workplace;
- Adopting measures to ensure that infected/potentially infected workers are separated and sent home; and
- Implementing protections from retaliation for workers that raise COVID-19 related concerns.



As indicated above, the **first step in this process** is hazard assessment. Employers should evaluate **COVID-19** exposure hazards for all **workers and tasks**, including the risk of exposure and the measures needed to reduce that risk. These **measures may be different** for different workers and tasks. For example, job functions that are outdoor, in **areas where workers** are able to remain at least 6 feet apart, and with little or no contact with the **public or other visitors** may be classified as **low risk**. On the contrary, tasks that involve entering an **indoor work space**, especially where workers are not able to maintain appropriate distance, may be **higher risk**. In this instance, it might be **appropriate** for the employer to use **physical barriers** to separate workers or improve ventilation. To minimize any potential spread, employers **may also consider screening** employees in advance of any higher hazard work for symptoms of **COVID-19**.

It is this **potential for spread** that further expands an employer's health and safety responsibilities with **respect to COVID-19**. Given the risk of **transmission**, it is important for employers not only to consider protections for its own employees, but also for **visitors to the workplace**. Exposure to visitors presents a potential risk to workers, so employers should consider these visitors when **developing a COVID-19** prevention program. Customer and visitor exposure should be a **component** of an employer's **hazard assessment**. Employers may consider screening visitors to the workplace in advance of arrival for signs and **symptoms of COVID-19**. And if an employer's **COVID-19** prevention program requires the use of **face coverings**, physical distancing, or other protective measures, visitors should be required to **follow the same rules**.

It is important to remember that the **OSHA inspector** is among the **facility's visitors**. As made clear by the **COVID-19 NEP**, many in-person **OSHA** inspections in the coming months may be **COVID-related**. Whether they **are or not**, it will be important for employers to demonstrate that they are aware of and taking seriously **OSHA's expectations** for protecting workers from **COVID-19 risks**. Employers should be prepared to **demonstrate the actions** they have taken to meet those expectations during any inspection, and they should follow all **COVID-19 procedures** during any on-site inspection. Employers should also be prepared to be flexible with regard to **remote follow-up**.

Lastly, **employers should continue** to be mindful of **OSHA's whistleblower protections**, in general and specifically regarding **COVID-19 complaints**. Over the past year, **whistleblower complaints** have increased overall by **nearly 30 percent** -- almost 40 percent of those complaints were **COVID-19 specific**. In addition, complaints of retaliation are on the rise. Both the **COVID-19 NEP** and **OSHA's Interim Enforcement Response Plan** specifically reference whistleblower protections, and inspectors will be on the **lookout for employers** who take action **against an employee** that raises concerns about **COVID-19 risks** and exposures.

May 12, 2021

## The Big-Ticket Question:

*Can (or should) employers require the COVID-19 vaccine of employees in the workplace?*

Since **COVID-19 vaccine distribution** began in December 2020, millions of people across the United States have been **vaccinated**. Still, a **large percentage** of people **remain unvaccinated**, which creates challenges for employers who view the **COVID-19 vaccine** as a key protective measure for maintaining a **safe and healthy workplace**. Moreover, some employers are **worried** that, if they do not **mandate or encourage** the **COVID-19 vaccine** in their workplaces, employees may invoke the general duty clause under **section 5(a)(1)** of the **Occupational Safety and Health Act (OSH Act)** to support a **claim** that the employer failed to provide a **safe and healthy work environment**. Now that the **vaccine** is widely available for adults in most states and **many employees** are still deciding to forgo the **vaccine**, employers are grappling with whether to **adopt a policy requiring** the **COVID-19 vaccine**. Before adopting a mandatory vaccine policy, employers should **recognize and evaluate** the many **legal and practical risks** associated with such **policies**.



At this point, relevant **legal precedent** and guidance surrounding an **employer's ability** to mandate the COVID-19 vaccine is **minimal** and legally untested, especially since the **COVID-19 vaccine** thus far has been authorized by the **Food and Drug Administration (FDA)** pursuant to an **Emergency Use Authorization (EUA)**, rather than complete **FDA approval**. In fact, lawsuits challenging employers' ability to mandate the vaccine, based on the **vaccine's EUA status**, already have been filed. Several states also have proposed bills which, if passed, would **prohibit mandatory vaccination** policies.

That being said, the **Equal Employment Opportunity Commission (EEOC)** has taken the position that employers, regardless of the industry, may **mandate the COVID-19 vaccine**, subject to certain limitations. Employers also may request proof that an employee has **received the COVID-19 vaccine**, although employers should avoid asking questions regarding why an individual **did or did not** receive the vaccine and should not obtain any other medical information from employees **beyond the proof itself**. However, asking for **proof of vaccination** is not a simple task; while some states are encouraging "**vaccine passports**," which contain information pertaining to an individual's **COVID-19 vaccine status**, other states are implementing strict bans on requesting such proof. Accordingly, **employers should consult** relevant state laws before requiring **proof of COVID-19 vaccination** from their employees.

### Can employees refuse the covid-19 vaccine?

As **recent headlines illustrate**, many employees are **refusing to obtain** the **COVID-19 vaccine**. The **EEOC** and the courts have advised that employees may lawfully refuse the **COVID-19 vaccine** for a number of reasons. Accordingly, if an employee refuses the **COVID-19 vaccine** due to a **disability** or a sincerely-held religious belief, the employer may be required to provide the employee with a **reasonable accommodation** regarding the vaccination requirement unless it would pose an undue hardship or a direct threat to the **workplace** which cannot be mitigated. Importantly, even if there is

a **direct threat** to the workplace, an employee cannot **automatically be terminated** for refusing to receive the **COVID-19 vaccine**; rather, employers must follow their process for reviewing whether a **reasonable accommodation** can be provided, and how (*e.g., remote work*). Some **employees may** also have been advised by their physicians **not to get vaccinated** due to particular health risks, about which employers, under **federal and state law**, generally are prohibited from inquiring.

Further, **Section 11(c)** of the **OSH Act** may provide an avenue for an **employee** to refuse the **COVID-19 vaccine** due to a reasonable belief that the **employee's medical condition** will cause a reaction, leading to **serious injury or death**.

Additionally, many **employers** are currently questioning their ability to separate or **otherwise differentiate employees** based on vaccination status. While further guidance from the **EEOC** is **expected** on that issue, employers should be wary of **distinguishing** among their employees based on vaccination status at this time, as **doing so could**, even inadvertently, lead to discrimination, especially if it results in a disparate **impact for certain protected groups**.

### Should employers with unions take a different approach?

Employers with **unionized workforces** may be required to provide their unions with **notice** and an **opportunity to bargain** about a mandatory vaccination policy, or the **impact that such a policy** would have on employees' terms and conditions of **employment**, as the **National Labor Relations Board** has held that a vaccination policy is a **mandatory subject of bargaining**. Moreover, both union and **non-union employers** should consider the right of employees to engage in **protected concerted activity** to advance their interests with respect to the **vaccination** (*e.g., to protest a vaccination policy or lack thereof*), as it is unlawful for an employer to **interfere** with, restrain, or **coerce employees** who engage in protected activity for **mutual aid or protection**.

## Other considerations

Other risks employers may face as a result of mandating the vaccine include the possibility that employees may be entitled to seek relief via workers' compensation if an injury or illness occurs related to the vaccination. Similarly, OSHA has advised that if an employer requires the COVID-19 vaccine as a condition of employment, injuries or illnesses due to the vaccine may be recordable.

Due to the risks associated with mandating the COVID-19 vaccine, employers instead may wish to consider encouraging employees to receive the vaccine or provide access to the vaccination on a voluntary basis, such as by offering reasonable participatory rewards or incentives (e.g., gift cards, cash incentives, raffles, vacation time, etc.), by providing access to or covering the cost of obtaining the COVID-19 vaccination (e.g., vaccination clinics, paid leave to obtain the vaccine, transportation to vaccine appointments, etc.), or by educating employees on the vaccination. As many recent examples in the media demonstrate, these types of incentives have shown to be effective in promoting the COVID-19 vaccine in the workplace.

Employers are encouraged to speak with competent legal counsel about these issues.

June 10, 2021

## Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace

OSHA issued updated guidance on mitigating and preventing the spread of COVID-19 in all workplaces. OSHA will update this guidance over time to reflect developments in science, best practices, and standards.

### Summary of changes:

- Focus protections on unvaccinated and otherwise at-risk workers
- Encourage COVID-19 vaccination
- Add links to guidance with the most up-to-date content

This guidance is intended to help employers and workers not covered by the Occupational Safety and Health Administration's COVID-19 Emergency Temporary Standard (ETS) to identify COVID-19 exposure risks to workers who are unvaccinated or otherwise at-risk, and to help them take appropriate steps to prevent exposure and infection. See Text Box: [Who Are At-Risk Workers?](#)

CDC's [Interim Public Health Recommendations for Fully Vaccinated People](#) explain that under most circumstances, fully vaccinated people need not take all the precautions that unvaccinated people should take. For example, CDC advises that most fully vaccinated people can resume activities without wearing masks or physically distancing, except where required by federal, state, local, tribal, or territorial laws, rules and regulations, including local business and workplace guidance. People are considered fully vaccinated for COVID-19 two weeks or more after they have completed their final dose of a COVID-19 vaccine authorized by the U.S. Food and Drug Administration in the United States. However, CDC suggests that people who are fully vaccinated but still at-risk due to immunocompromising conditions should discuss the need for additional protections with their healthcare providers. CDC continues to recommend precautions for workers in [certain transportation settings](#).

This guidance contains recommendations as well as descriptions of mandatory safety and health standards, the latter of which are clearly labeled throughout as "mandatory OSHA standards." The recommendations are advisory in nature and informational in content, and are intended to assist employers in providing a safe and healthful workplace free from recognized hazards that are causing or likely to cause death or serious physical harm.

## OSHA's New COVID-19 Standard Lets Most Industries Set Their Own Safety Protocols

The new standard seeks to protect healthcare workers while allowing other industries, including construction, to set protocols specific to their workplaces.

On June 10, OSHA announced it will issue an Emergency Temporary Standard (ETS) to protect healthcare workers from contracting coronavirus. For other businesses, including construction, the agency updated existing guidance but will allow those sectors to continue best practices designed specifically for their industries.

The new standard targets workers facing the highest coronavirus hazards, such as direct exposure and treatment of COVID patients. Those industries outside of the few named within the standard are largely unaffected.

The American Road & Transportation Builders & Association (ARTBA) issued a press release in response to the announcement, applauding OSHA for granting transportation construction contractors and other businesses the flexibility to adopt COVID-19 protocols that fit their specific workplaces.

"OSHA's announcement is a well-reasoned approach that will let the transportation construction industry continue to provide safety protections tailored to its workers as they build our roads and keep our country moving during the COVID pandemic," said David Bauer, ARTBA president and CEO.

Most construction workers, including those in the transportation sector, work primarily outdoors. Guidance by the Centers for Disease Control, issued in mid-May, relaxed requirements for wearing face coverings and other health protocols for workers who are fully vaccinated – a welcome reprieve particularly for those working in extreme heat and other conditions where masks can prove especially challenging.

According to ARTBA, OSHA's decision not to create a nationwide ETS applying to all industries acknowledges the drawbacks of a "one size fits all" approach to new COVID-19 regulations. This is a successful outcome to ARTBA's efforts, dating back to December, urging the Biden Administration to "consider the specific attributes and existing safety protocols of particular industries, with the objective of not undermining those protections to the detriment of their workers."

## July's Operation Safe Driver Week looking for speeders



This year's [Operation Safe Driver Week](#) will be held [July 11-17](#) with an emphasis on speeding, the [Commercial Vehicle Safety Alliance](#) announced recently.

During the week, law enforcement personnel will be on the lookout for truck drivers and passenger car drivers engaging in risky driving behaviors in or around commercial vehicles. Identified unsafe drivers will be pulled over and issued a citation or warning.

"Data shows that traffic stops and interactions with law enforcement help reduce problematic driving behaviors," said [CVSA](#) President Sgt. John Samis with the Delaware State Police. "By making contact with drivers during [Operation Safe Driver Week](#), law enforcement personnel aim to make our roadways safer by targeting high-risk driving behaviors."

[CVSA](#) selected speeding as its focus this year because, despite a drop in roadway travel last year due to the pandemic, nationally, traffic fatalities increased. According to the National Safety Council's (NSC) preliminary estimates, the estimated rate of death on roads last year increased 24% over the previous 12-month period, despite miles driven dropping 13%.

In addition to speeding, law enforcement will be tracking other dangerous driver behaviors throughout [Operation Safe Driver Week](#), including reckless or aggressive driving, distracted driving, following too closely, improper lane change, failure to obey traffic control devices, failure to use a seat belt, evidence of drunk or drugged driving and more.

Last year, truck drivers received more than 10,000 warnings and citations for various unsafe driving behaviors during [Operation Safe Driver Week](#). Speeding was the most common traffic violation for truckers during last year's enforcement spree, which resulted in 2,339 citations and 3,423 warnings.

[Click this link for downloadable flyers and posters.](#)

## FMCSA Delays Electronic Medical Certification Rule

The [Federal Motor Carrier Safety Administration](#) published a **final rule** on June 22nd that **officially delays** the **compliance date** for a system that will **streamline communication** between state **driver's licensing** agencies and **FMCSA** regarding **drivers' medical certifications**.

The agency **published** an **interim final rule** in 2018 **extending** the compliance date for the **rule until June 22, 2021**. However, the **proper systems** are still **not in place**, so the agency is **delaying** the **implementation** until **June 23, 2025**. The extension "**will provide FMCSA** time to complete certain **information technology (IT)** system development tasks for its **National Registry of Certified Medical Examiners** and to provide the state **driver's licensing** agencies (**SDLAs**) **sufficient time** to make the necessary **IT programming** changes when the new **National Registry** system is **completed** and available," **FMCSA** said in the **notice**.

The **rule**, part of which **took effect** in 2015, requires **FMCSA** to **electronically transmit** to **SDLAs** the results of **drivers' medical certifications** once the **exams** have been completed. **FMCSA** receives this **information** from medical **examiners**, who are required to **upload exam** results to **FMCSA** by **midnight** the day after the **exam** is completed. **State agencies**, once they **receive results** from **FMCSA**, will send the results to the **Commercial Driver's License Information System (CDLIS)** to make other **states aware** of the **results**.

Once the rule is **fully implemented**, motor carriers will **no longer be required** to verify that **CDL/CLP** drivers were **certified** by a certified **medical examiner** listed on the **National Registry**.

The proposal to **delay** the **compliance date** means that **through June 22, 2025**:

- *Certified MEs would continue issuing medical examiner certificates (MEC) to qualified CLP/CDL applicants/holders.*
- *CLP/CDL applicants/holders would continue to provide the SDLA a copy of their MEC.*
- *Motor carriers would continue verifying that drivers were certified by an ME listed on the National Registry.*
- *SDLAs would continue processing paper copies of MECs they receive from CLP/CDL applicants/holders.*

# Fleets Need to Track Three Kinds of Maintenance Costs



There is that old adage, “If you want to improve something, you first have to measure it.”

With that in mind, if you want to control your maintenance costs, you need to begin by developing a plan to accurately track them as well as warranty programs and

parts pricing. The best way to do this is via a maintenance database, but it can be done manually.

Fleets need to track three kinds of maintenance costs. 1) *Preventive maintenance which is based off of predetermined intervals* 2) *Predictive maintenance which is condition-based repairs — using oil sampling to determine proper oil drain intervals* and 3) *Unscheduled maintenance or running repairs which are the repairs that are required between scheduled preventive maintenance services.*

Monitor the **unscheduled** versus **scheduled repair** ratios to measure the **effectiveness** of your **preventive maintenance** program. Many shops will find themselves at a **50/50 ratio**. A good target, however, is **70/30 scheduled** versus **unscheduled** maintenance. It is **important** to note that predictive maintenance costs are often **half that** of an **unscheduled service event** and preventive maintenance can result in a **30% savings** over corrective events.

You also need to **focus** on the quality of the **repairs**. If your **PM process** outlines **250 items** that need to be **checked**, how are you **measuring** the quality of that **PM**? Are you **randomly picking** a group of **trucks** and doing a **post-PM quality inspection**?

If you are **outsourcing** your maintenance, you **still need to track your costs**. Consider creating **service-level agreements** with your **outside service providers** that **outline** your expectations. One **segment** of the **service level agreement** should include a **negotiated labor rate**, and if the **vendor** has multiple locations, that **labor rate** should be applied **across the entire network**. The **agreement** should also include **different labor rates** based upon the **type** of work being **performed** and the asset being **serviced**. For example, your **trailer rate** should be lower than your **tractor PM rate**, which in turn should be **lower** than your **diagnostic labor rate**.

You will also want to **set up** a repair **approval process** that sets a **dollar threshold** for repairs that can be **completed** without **additional approval**. For repairs that **exceed** that **pre-approved level**, insist on **estimates**. It is always better to **negotiate price** before the work is **done** rather than **after**. But remember in **cases** where **repair authorization** is needed, it is **incumbent** upon you to make sure those **approvals happen** in a timely manner or you **risk slowing down** the repair process.

Other **items** to include are your **specific parts**. Do you want the **service shop** to use **OEM parts** or **substitute** with lower cost **aftermarket** products? There is no right or **wrong answer** here. Base your **decision** on what makes the **most sense** given your **application** and the **duty cycle** of your **vehicles**.

Look at your **warranty reimbursement**. Have you **tailored** your warranty **purchase** to the needs of your **specific operation**? You are leaving **money** on the table if you are **not setting up** your vehicles with their **respective warranty components**. Once you have the **components** set up in your **tracking system**, you can have **repairs flagged** and you can **follow up** to ensure your **warranty claims** are filed.

## DOT Outlines Near-Term Regulatory Priorities

Automatic emergency braking, **Drug and Alcohol Clearinghouse** revisions, a **revision** to the **vision standard** for drivers and more are **among** a bevy of rules the **U.S. Department of Transportation** plans to work on over the **next year** and **beyond**.

In the **DOT's portion** of the Biden administration's **Unified Agenda**, the department **listed** the rules it views as a **priority** in the **near future**. The **Federal Motor Carrier Safety Administration** has **seven rules** listed in the proposed **rule stage** and **12 rules** listed in the **final rule stage**. The **National Highway Traffic Safety Administration** also has **three rules** in the works that affect **commercial vehicles**.

Most **notable** among **FMCSA's** list of **rules** is a **proposed rule** that would revise the **Drug and Alcohol Clearinghouse**, which **went into effect** at the beginning of **2020**. According to the **abstract listed** with the rule, the **proposal** would “**streamline** and **improve error-correction procedures**, **queries** and **consent requirements**.” As of right now, the **notice of proposed rulemaking** is expected in **February 2022**.

**FMCSA** is also looking at **finalizing a rule** that would **revise** the **vision standard** for drivers. The agency **published** a notice of **proposed rulemaking** in **January 2021**, which **proposed** to allow **drivers** who cannot meet **either** the current **distant visual acuity** or **field of vision standard**, or both, in **one eye** to be **physically qualified** to operate a **commercial vehicle**. A final rule is **expected** to be **published** in **February 2022**.

From **NHTSA**, a **proposed rulemaking** that would require **automatic emergency braking** to become **standard** on heavy trucks is **expected** to be **published** in **April 2022**. If the **current version** of the **House of Representatives' infrastructure bill**, the **INVEST in America Act**, were to **become law**, the move to **standardizing** and requiring **AEB technology** would be **required** of the **agency**.

**NHTSA** agency also **plans** to propose **fuel efficiency** and **greenhouse gas standards** for medium- and **heavy-duty trucks next year** and to **finalize** a rule for **upgrading rear impact guard requirements** for trailers.

Other **notable rules** in the **works** from **FMCSA** include:

- *Broker and freight forwarder financial responsibility (an advanced notice of proposed rulemaking was previously published in 2018)*
- *Safe integration of automated driving systems (an ANPRM was previously published in 2019)*
- *Hazmat vehicles and railroad highway grade crossings*
- *Certification of safety auditors, investigators and inspectors (a notice of proposed rulemaking was published in 2019)*

## FMCSA Shuts Down Mexico-Based Trucker After Fatal Crash, DUI Charges

The **Federal Motor Carrier Safety Administration** has effectively shut down a Mexico-licensed truck driver and barred him from operating in the U.S. after a fatal crash on May 19.

**FMCSA** says the truck driver, who held an expired Mexican CDL, was driving a commercial truck on Highway 55 in Eagle, Idaho, when, according to witnesses, he failed to stop at a red light at the intersections of Highways 55 and 44. His truck then crashed into another vehicle, fatally injuring its driver.

Following the crash, the driver agreed to submit to, and subsequently failed, three **Standardized Field Sobriety Tests** administered at the scene by the Idaho State Police. He then agreed at the crash scene to two breathalyzer tests. The first test sample showed a breath alcohol content (BrAC) of 0.222; the second, 0.214. Approximately four hours after the crash, at the Ada County Jail, he tested at 0.080, with a fourth showing at 0.078.

Possessing an alcohol concentration of greater than 0.04 while operating a commercial vehicle weighing more than 26,001 pounds and requiring a CDL is a violation of federal safety regulations.

The State of Idaho has charged the driver with felony aggravated driving under the influence and felony vehicle manslaughter.

A subsequent investigation by **FMCSA** personnel found that the driver, in the days leading up to the crash, on multiple occasions, had falsified his records-of-duty-status and had exceeded the allowable on-duty driving hours permitted by federal regulations.

## Bevy of Trucking Groups Call for Removal of Insurance Hike from House Highway Bill



*OOIDA-led coalition decries insurance hike inclusion in House highway bill*

As the **U.S. House Committee on Rules** met recently to discuss which **amendments** would be included in the bill sent to the **full House floor**, the **Owner-Operator Independent Drivers Association** and a coalition of more than **60 trucking-related groups** [penned a letter](#) to the **House Rules Committee** advocating for an **amendment** that would remove a **liability insurance hike** to **\$2 million** for motor carriers.

The letter calls the **167% increase** to carriers' **minimum liability** insurance requirement "**harmful and unnecessary.**"

"If the **House allows** this policy to **remain** in the **highway bill**, it would **jeopardize** countless small and **family-owned businesses**, as well as **blue collar jobs**," the coalition wrote. "We **therefore** ask that you make Rep. Mike Bost's **amendment** in order and allow **all Representatives** to consider this **issue** on its **own merits.**"

The **coalition adds** that while **supporters** of the **insurance hike** say the change is needed to **account for** inflation since the **\$750,000 minimum** was implemented, the **existing level** covers more than **99% of cases**, according to **research** from the John A. Volpe **National Transportation Systems Center**.

"It may be true that **inflation** has **increased some costs**, but this **congressionally-required** research demonstrates that **inflation** has not **outpaced** the **current** minimum requirements," the coalition said. "What **studies** haven't **shown** is any **improvement** to safety **associated** with **increasing insurance** requirements. There is no **reputable research** indicating an **increase** of any amount **would help reduce** crash rates.

Proposals to **raise minimum liability coverage** are nothing more than an **opportunity** for their most **ardent supporters** -- trial lawyers -- to **receive higher payouts** from **settlements** at the expense of **American businesses.**"

The **letter** also notes that the **Senate Commerce, Science and Transportation Committee** passed its **version** of the **highway bill** with **bipartisan support**, and it **did not include** any changes to **insurance levels**.

## Fleet Owner Ordered to Pay \$632k for Falsifying FMCSA Documents

*Rhode Island fleet owner ordered to pay restitution*

The owner of a Rhode Island-based transportation company has been ordered to pay \$424,598 in restitution to his victims and \$207,270 to the Internal Revenue Service after using another person's identification without his or her permission to falsify motor carrier registration documents.

According to the Department of Transportation Office of Inspector General, the owner was sentenced on March 10 to two-and-a-half years in prison, three years of supervised release and a \$1,000 special assessment.

OIG says he used another person's identification to falsify **Federal Motor Carrier Safety Administration** documents to hide an affiliation with a company under a federal out-of-service order. He also generated false documents to show compliance with **FMCSA** rules and regulations, OIG adds.

## Drug and Alcohol Violations in 2021 Outpacing 2020 Numbers Through First Quarter

The **Federal Motor Carrier Safety Administration's (FMCSA) Drug and Alcohol Clearinghouse** has now been in effect for a year and a half, and through the first quarter of 2021, drug and alcohol violations are on pace to be higher than in 2020, according to data from FMCSA available through March.

As of April 1, there were more than 2.1 million users registered in the Clearinghouse, including truck drivers, fleet representatives, consortia/third-party administrators (C/TPAs), medical review officers (MROs) and substance abuse professionals (SAPs).

While none of the regulations regarding drug and alcohol testing and reporting have changed, the Clearinghouse is starting to make it easier for fleets to conduct pre-employment screenings of their drivers.

Jared Rosenthal, founder and CEO of drug consortium [Health Street](#), said fleets are required to look back three years when hiring a new driver. Prior to the Clearinghouse, this has required reaching a driver's previous employers to get their drug testing records. Now, for at least half of the required time period, that is done with a simple query of the driver's CDL number in the database.

By January 2023, when the Clearinghouse has been in place for three full years, carriers will be able to conduct their pre-employment checks solely in the Clearinghouse, Rosenthal added.

Another benefit to the Clearinghouse, Rosenthal said, has been that when a driver fails a drug test, it's more difficult to hide.

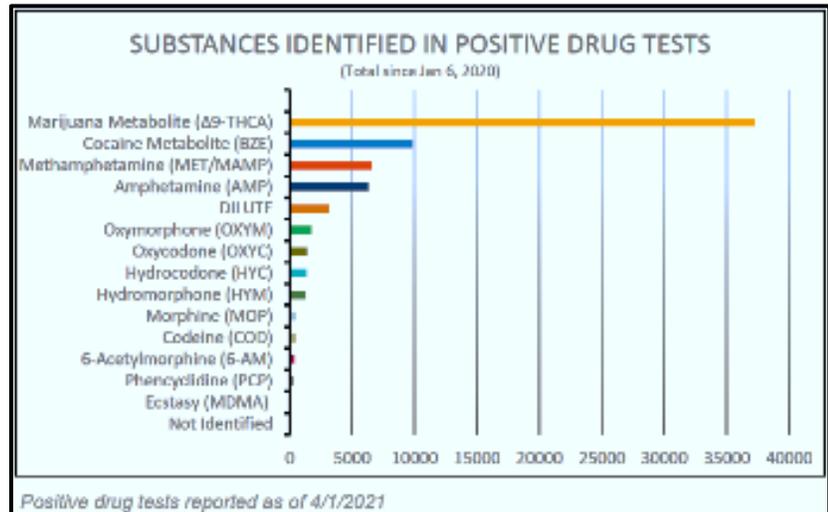
"Sometimes, obviously, there's an incentive if you're a driver who fails a test two years ago, maybe you don't mention that you worked at that previous place," he said.

Since the Clearinghouse took effect at the beginning of 2020, through the end of March 2021 there were 69,100 total drug violations reported, which includes actual knowledge violations (1,642), drug test refusals (9,967) and positive drug tests (57,491). There were also 1,552 alcohol violations, which included actual knowledge violations (233), alcohol test refusals (369) and blood alcohol concentration of 0.04 or higher (950).

Through the first three months of 2021, there were 14,324 drug violations and 367 alcohol violations reported to the Clearinghouse compared to 54,776 drug violations and 1,185 alcohol violations through all of 2020. If that pace keeps up through the rest of the year, there will be considerably more violations this year than last.

The majority of positive and refused drug tests occurred in pre-employment screenings and random drug tests, while most positive and refused alcohol tests were found via random tests and reasonable suspicion.

FMCSA's data also shows that marijuana remains by far the most used illegal substance among CDL holders with 37,261 positive marijuana tests through March. The next-highest substance identified in positive drug tests has been cocaine, with 9,848 positives.



Rosenthal said a big reason for the high number of marijuana test-positives is the rapidly changing laws at the state level across the country. While weed is legal in some states for recreational use, legal in others for medical use or not legal at all, it is still considered a Schedule I drug at the federal level.

He said he expects to see at some point in the future a device that will be able to detect marijuana, like a breathalyzer detects alcohol, which could change the federal stance on the drug.

"My prediction is there is one thing that will change the law for sure, and that is the invention of a so-called 'weedalyzer,' so a breathalyzer for marijuana," he said. "Nobody is supporting putting truckers on the road that are high, but the problem with this issue, legal or not, is we don't know based on a drug test if you're high at that moment."

He added that the general public, by and large, doesn't have a problem if a truck driver has a beer at night, then gets up the next day and drives.

"Once we have a device that tests for marijuana the same way, I think that law will change," he said.

For drivers who do have a drug or alcohol violation recorded in the Clearinghouse, they must complete the return-to-duty process before they can get back behind the wheel.

FMCSA said, as of April 1, there were 64,846 drivers in the return-to-duty process with their status in the Clearinghouse and only 10,609 of those had completed their RTD test with negative results. The remaining 54,237 drivers had either not started their RTD process, were working with an SAP, or were eligible to take their RTD test and had just not yet completed it.

## Safety Around Conveyors



***A Thorough Risk Assessment By Trained Professionals Is The Ideal Way To Identify Hazards And Guard Against Accidents.***

Conveyor service should be performed only when the belt is properly locked, tagged, blocked and tested.

Because of their size, speed and high-horsepower drive motors, conveyors pose a number of risks to personnel working on or near them. In addition to all of the physical danger zones, when an injury occurs, "fault" is often attributed to injured workers' actions or inactions. However, safety experts point out that injuries generally occur due to a series of factors.

"Accidents are typically a result of a complex combination of probabilities, rather than a single unsafe act," observed Martin Engineering Process Engineer Daniel Marshall. "Except for the unsafe act, it can be said that the accident would not have occurred if there was a safer design, better maintenance or less pressure for production."

Read [important information](#) about:

- Assessing the Risk of a Conveyor
- Working Around a Moving Conveyor
- Workaround and Shortcuts
- Neglected Safety and Control Mechanisms
- The Multiplying Effect of Unsafe Practices



*The most effective way to reduce fatalities is to minimize unsafe behaviors.*

## MSHA Reports 15th Fatality of 2021

The **Mine Safety and Health Administration (MSHA)** reported that on **June 7**, a miner at a **construction sand and gravel operation** in Crosby, Texas, entered the **top** of a **primary feed hopper** to break up and **remove a large rock**. Raw material that **remained** on the sides of the **hopper sloughed off** and engulfed the **miner**. This is the **15th fatality** reported in **2021**, and the **second** classified as "**Handling Material**."

By this **date last year** there were **12 fatalities**. By this date in **2019**, there were **10 fatalities**.

**MSHA** recommends the following **Best Practices** to avoid this type of accident:

- *Equip hoppers with mechanical devices, grates/grizzlies or other effective means of handling material so miners are not required to enter or work where they are exposed to entrapment by caving or sliding material.*
- *Establish and assure policies and procedures are followed to safely remove blockages in bins and hoppers. Follow manufacturer recommendations.*
- *Provide a safe means of access that allows miners to safely conduct tasks such as removing large rocks and other material.*
- *Wear an appropriate safety harness, lanyard and lifeline which are securely anchored and constantly monitored and adjusted by another person, as needed, prior to entering bins or hoppers.*
- *Train miners in safe work procedures and hazard recognition especially when removing blockages in bins or hoppers.*

## What's the Significance of UL Classification in PPE?

Companies in the market for personal protection equipment (PPE) should look for products that are UL classified where this is applicable. These items have been subject to specific relevant tests and passed inspections for either personal or industry use. Managers and administrators can't afford to take chances when it comes to the health and safety of their employees. Products with the UL classification are considered the best and most reliable in the industry, so employees can focus on the task at hand without putting their health at risk.



### The UL Classification

The UL classification comes from [Underwriters Laboratories](#), a non-profit third-party testing facility headquartered in Northwood, Illinois. With customers in over 100 countries, the company is considered the industry leader in equipment inspection and quality insurance. Unlike some other testing companies, UL has no vested interest in the financial success of any of the products it's responsible for testing. This ensures every product is fairly evaluated. UL serves a variety of industries, including those that work in safety, security, transportation, utility, medicine, retail, manufacturing, and technology.

The company tests the product to make sure it will work as promised under various circumstances. The UL classification means the product has passed every test according to the applicable standard. It can be used for any official purpose without failing on the job. When it comes to PPE, this means the product will protect the wearer from the threat or hazard in question. For example, UL classified flame-resistant clothing will provide the expected level of protection if a fire should occur.

Once UL approves a product for classification, it then needs to be evaluated by state, local and federal government agencies like [OSHA](#). UL is known to make impromptu visits to companies whose products the organization has already approved to ensure they're still up to UL standards. If a product fails these tests a second time, the UL classification will be removed.

Classification is not to be confused with "listed." Products that are UL listed have only been approved for specified means. They may lose efficacy in certain situations or when used for unspecified means. Employers should use caution when using UL listed PPE on the job. UL listed PPE may only offer protection in certain situations.

### What the UL Classification means for companies

Employers are responsible for the health and safety of their employees. The UL classification was created to ensure that industries and business owners have a clear means of comparing products against a known set of standards when it comes to personal safety. Companies of all sizes have come to rely on UL for its commitment to public health and safety. The safety experts at UL go to great lengths to ensure these products have been thoroughly tested in the field, so employers can depend on them without worrying about putting their workers at risk.

UL takes a personalized approach during the inspection process. Workers use this gear in trial situations to make sure items work properly. They don't make these decisions lightly. If the product fails, breaks down, or puts a worker at risk, it gets flagged as non-compliant, putting an end to the testing and evaluation period.

Managers and employers usually don't have time to test these products themselves. It's always important to make sure the PPE works before sending workers into the field. That's why companies usually rely on UL to do the testing on their behalf. The UL classification is a signal to employers that these products are ready to go right out of the box. Although, workers should still take a few minutes to inspect the item to make sure it isn't damaged before wearing it in the field.

The safety industry continues to evolve. New manufacturers and sellers are popping up all the time. Employers have no shortage of options when it comes to buying PPE. Certain items may go on sale, while some brands are more expensive than others, but all these choices can be overwhelming for some business owners and safety managers.

Companies are always looking to save money, but not if it means putting their workers at risk. In addition to size and fit, the only thing that really matters when selecting PPE is whether the item is UL classified. This is the only way to be sure the product will hold up on the job.

### What the UL Classification means for workers

Workers need to be sure they aren't putting their health and safety at risk when taking on a new position. In some cases, they may not have a lot of time to acclimate themselves to their environment. As they put on their PPE, they should check to make sure the product fits properly and is working correctly, but there's only so much prep they can do before heading into the field.

The UL classification shows workers that they can rely on the PPE in question. Managers should spend some time going over the latest health and safety guidelines. They can also take a moment to explain the UL classification and how it applies to their safety gear. With this knowledge in tow, workers can rest assured that they won't be in harm's way during their shift. This can help boost productivity on the job. Workers can focus on the task at hand instead of worrying if their helmets, goggles, or gloves will still be there when they need them most.

Threats are always changing in the workplace. From falls to fires and toxic gases, working in the field comes with so many risks. The COVID-19 pandemic has taught us that new threats can catch us off guard when we least expect them.

The UL classification is here to make life easier for managers and their workers. Both parties can enjoy peace of mind knowing they are using some of the best gear in the industry. Managers should only invest in UL classified PPE to keep their workers out of harm's way. UL listed PPE may be used in certain situations, but employers should make sure their workers are only using these items for specified purposes.

No one should have to worry about using poor-quality PPE on the job. Saving money isn't a priority when it comes to saving lives.