



As we move into 2023

MJS Legacy Safety Consulting Services LLC

will continue to focus our attention to
'Providing Great Service and Building Lasting Relationships'

It has been our distinct pleasure to serve the needs of businesses both big and small since 1995. MJS Safety transitioned to **MJS Legacy Safety Consulting Services** in 2021 with the passing of our founder, Mike Stookey. But our goal has not changed. We will continue to grow the legacy of customized service and individual attention that we have provided to so many companies in Colorado, Wyoming, Montana, and surrounding states. Meeting your unique safety and regulatory needs is our mission.

We look forward to continuing a productive and successful business relationship with you through **MJS Legacy Safety Consulting Services** for many years to come.

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Occupational Fatalities

There were 5,190 fatal work injuries recorded in the U.S. in 2021, an 8.9% increase from 2020, the Bureau of Labor Statistics reported.

The U.S. Department of Labor's Assistant Secretary for **Occupational Safety and Health**, Doug Parker, issued a statement regarding the recent release by the Bureau of Labor Statistics of its [2021 Census of Fatal Occupational Injuries](#) (pdf):

"The recent announcement by the Bureau of Labor Statistics of a one-year increase of nearly 9 percent in fatal work injuries serves as call to action for **OSHA**, employers and other stakeholders to redouble our collective efforts to make our nation's workplaces safer."

"In 2021, 5,190 workers suffered fatal work injuries, equating to one worker death in the U.S. every 101 minutes, including 653 Black workers, whose fatality rate hit an all-time high. Black and Latino workers also had fatality rates disproportionately higher than their co-workers in 2021. These are deeply troubling facts."

"Each of these deaths cruelly impacts these workers' families, friends, co-workers and communities. They are clear reminders of the important work that must be done. **OSHA** and its thousands of professionals across the nation are determined to enforce the law while working with employers, workers, labor unions, trade associations and other stakeholders to ensure that every worker in the U.S. ends their workday safely."

COVID INFORMATION/RESOURCES

For your convenience, we have moved all COVID information and resource [links](#) to the last page of the newsletter.

FROM ALL OF US AT MJS Legacy Safety — May the New Year bring you Good Health & an Abundance of Happiness!

▶ Occupational Fatalities

There were 5,190 fatal work injuries recorded in the U.S. in 2021, an 8.9% increase from 2020, the Bureau of Labor Statistics reported. [read more...](#)

▶ Drug Testing

More and more of the 3rd Party Auditing companies like NCMS and TPS Alert are requiring drug testing levels slightly above the levels of some of the regulatory levels to ensure drug testing is being completed each quarter. [read more...](#)



▶ Justice for Whistleblower

A federal whistleblower investigation has found a [Denver-based information technology services provider](#) retaliated against an employee who raised concerns about the company's failure to pay trust fund taxes to the IRS. [read more...](#)

▶ Read This Before Submitting 2022 Injury and Illness Data [read more...](#)

▶ Fall Protection is OSHA's Top Safety Violation for 12th Year in a Row

OSHA unveils Top Ten Safety Violations for FY2022 at NSC Congress [read more...](#)

▶ Construction Safety Programs Need to Include Physical, Mental Wellness

Leaders in the construction industry need to re-examine their safety programs to ensure both physical and psychological health are incorporated and addressed [read more...](#)

▶ National Safety Stand-Down To Prevent Falls in Construction — May 1-5, 2023 [read more...](#)

▶ SAFETY Q&A

What if someone claiming to be OSHA calls my business and tells me I have to pay them for required OSHA resources? Is this legitimate? [read more...](#)

▶ How Wearable Technology Can Improve Safety on the Jobsite

Using the Internet of Things, construction firms can improve the safety of their workers and the jobsite [read more...](#)

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This type of winter jacket uses a battery to generate heat via copper or aluminum wires around the jacket. [read more...](#)

▶ How is Construction Workwear Evolving to Meet the Needs of Women?

The most recent U.S. Bureau of Labor Statistics indicate that women now make up 14 percent of the construction industry. [read more...](#)

▶ Check Out These Brands Making Maternity Construction Clothes [read more...](#)

TRANSPORTATION NEWS SUMMARY

▶ Reminder - Revised Federal Drug Testing Custody and Control Form Mandatory... [read more...](#)



▶ DOT Implements Annual Regs Violation Penalty Increases [read more...](#)

▶ PHMSA Reduces Minimum Random Drug Testing Rate for Covered Employees in 2023

This change will be effective from January 1, 2023, through December 31, 2023. [read more...](#)

▶ Crime Prevention for Truckers Study

FMCSA initiated the Study to understand the nature and prevalence of harassment and assaults against truckers. [read more...](#)

▶ FMCSA to Issue More Warning Letters for Unsafe Driving BASIC

Unsafe Driving is one of the seven Behavior Analysis and Safety Improvement Categories [read more...](#)

Exemptions... what's new?

▶ Trucking Alliance: DENIAL OF HAIR-TESTING EXEMPTION OFFERS 'CLEAR ROAD MAP'

Proponents of hair-testing for federally required drug testing of truck drivers have had another setback with the denial of a petition to the Federal Motor Carrier Safety Administration ... Or have they? [read more...](#)

▶ Training Exemption Requests Denied

FMCSA also denied petitions from two truck driving schools seeking waivers from certain provisions of the **Entry Level Driver Training** regulations. [read more...](#)

▶ FMCSA Denies Livestock Haulers' Request For Longer Work Hours

The requested exemption was made on behalf of drivers who transport livestock, insects and aquatic animals. [read more...](#)

▶ New Trucker-Focused Urgent Care, Telehealth Service Launching

Plans are in the works to create a new network of healthcare clinics aimed at serving truckers, other travelers, and people living in rural areas. [read more...](#)

MSHA NEWS SUMMARY

▶ Winter Safety Checklist for Mines

Are these **Best Practices** being followed at your mine site? [read more...](#)



▶ Celebrating Miners on National Miners Day

Each December, our nation marks **National Miners Day** to recognize the contributions and sacrifices of America's miners. [read more...](#)

MONTHLY SAFETY & HEALTH TIP NEWS SUMMARY

▶ Discrimination Is A Job Site Safety Issue

A construction site can be **dangerous** for a lot of reasons, and **measures should be taken** to mitigate them **whenever possible**. [read more...](#)

COVID INFORMATION/RESOURCES SUMMARY

For your convenience, we have moved all COVID information and resource [links](#) to the last page of the newsletter.



“Training Spotlight”

(a different course will be featured monthly)

> NUCA CONFINED SPACE ENTRY TRAINING - ENTRANT, ATTENDANT, SUPERVISOR & COMPETENT PERSON

The National Utility Contractor Association Confined Space Entry Course has been developed to meet the OSHA Confined Space for Construction standard. This course is a 1 day course covering the responsibilities of the Entrant, Attendant and Supervisor as well as the Competent Person, Air Monitoring personnel, and covers the requirements of each role. Our course includes both classroom training and hands-on practical training with the equipment employees will utilize to safely conduct confined space operations.

For all of our Course Offerings visit the [MJS Legacy Safety website](http://www.mjslegacysafety.com)

Schedule of classes January 2023: • *TRAINING CENTER - 1760 BROAD ST, UNIT H, MILLIKEN, CO 80543*

- *PEC Safeland Basic Orientation: **NEW 2021 SAFELAND:** Jan 9, 20, 30; 8 – 4:30;
This class available through video conference instructor led distance learning thru 6/30/22 - only upon request
- *First Aid/CPR/AED/BLOODBORNE PATHOGENS (We offer MEDIC FIRST AID): Jan 16, 31; 8 – noon;
In Person Classes:
This class is also available for blended learning (online) with remote or in-person skills assessment
- *Hydrogen Sulfide Awareness [*ANSI Z390 -2017 Course*]: Jan 16, 31; 12:30 – 4:30;
This class available via Instructor Led video conference
- *PEC H2S Clear Course – *virtual*: Jan 4; 8 am

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

Need any classes in Spanish? Contact carriejordan@mjssafety.com to schedule.

For any last minute schedule updates, go to www.mjslegacysafety.com

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

— 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

Unable to attend a class?

MJS Legacy 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

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

➔ **Distance Learning & Video Conference classes:** *Through the Pandemic we have been able to offer Safeland and the PEC H2S Clear courses via video conferencing, and Veriforce has extended the authorization to continue this until at least June 2023. 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.*

SOURCES FOR THIS ISSUE

- INCLUDE:**
OSHA
FMCSA
ISHN
US DOL
MSHA
For Construction Pros
Brandon Noel
Miners News
Ironpros
BLS
DISA Global Solutions
Harvard
Karen Korellis
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Need Help With
■ ISNetworld
■ PEC/Veriforce
■ NCMS
■ Avetta/BROWZ
■ TPS ALERT
CALL US!!!

► MJS Legacy Safety can help guide you through training requirements. Call us! ◀

Drug Testing

More and more of the 3rd Party Auditing companies like NCMS and TPS Alert are requiring drug testing levels slightly above the levels of some of the regulatory levels to ensure drug testing is being completed each quarter.

MJS Legacy Safety Services conducts both drug testing and Auditing account management for our in-house consortium clients as well as the management of other client drug testing consortium accounts, such as DISA. Many have modified their random selections process to work more effectively when a policy is tied to multiple auditing agencies. In specific situations, this may result in slightly more random selections being generated than clients are previously used to seeing to ensure compliance with both the regulatory requirements as well as client specific requirements.

Drug testing policies typically mirror the requirements of an auditing agency (e.g. DOT, DCC, DISA Monitoring, NCMS, etc.). When customers setup a single policy for more than one monitoring agency, and these auditing agencies require different random percentages, the number of random selections generated may be lower than one of the two agencies requires.

**If you have questions on the selection process,
need assistance with the management of your TPS Alert, NCM, or
other drug testing audit accounts,
or need to sign up for a consortium, give us a call!**



Justice for Whistleblower

A federal whistleblower investigation has found a [Denver-based information technology services provider](#) retaliated against an employee who raised concerns about the company's failure to pay trust fund taxes to the IRS.

OSHA enforces the whistleblower provisions of the Taxpayer First Act and more than 20 other statutes protecting employees who report violations of various workplace safety and health, airline, commercial motor carrier, consumer product, environmental, financial reform, food safety, health insurance reform, motor vehicle safety, nuclear, pipeline, public transportation agency, railroad, maritime, securities, tax, criminal antitrust and anti-money laundering laws.

For more information on whistleblower protections, visit [OSHA's Whistleblower Protection Programs webpage](#).



Read This Before Submitting 2022 Injury and Illness Data

Collecting data on workplace injuries and illnesses is an important element of the **Occupational Safety and Health Administration's** mission to improve workplace safety and health.

Establishments in [certain industries](#) are required to report injuries and illnesses for each calendar year by **March 2** of the following year using Form 300A.

If your establishment is required to submit this data, you must use **OSHA's [Injury Tracking Application](#)**, or ITA.

The **DOL** recently updated the ITA as part of the **Department of Labor's** information technology modernization and security enhancement efforts.

What's different? All current and new account holders must connect your ITA account to a [Login.gov account](#) with the same email address in order to submit your 2022 data by March 2, 2023.

Why must employers create a Login.gov account to submit their 2022 workplace injury and illness data to OSHA?

Login.gov is a secure sign-in service that allows the public to access government applications using one account and password. Since October 2022, the **OSHA Injury Tracking Application** requires you to create an ITA account and then a **Login.gov account** to report your establishment's injury and illness data.

A new [video](#) explains how to create an account or log in to an existing account using *Login.gov*.

You can find answers to other [FAQs](#) as well as detailed instructions for entering injury and illness information in the ITA.

Need more assistance? Use the [help request form](#) at the end of the FAQs.

To report safety and health violations, file a complaint, or ask safety and health questions, call 800-321-6742 or visit [osha.gov/ContactUs](#).

Fall Protection is OSHA's Top Safety Violation for 12th Year in a Row

OSHA unveils Top Ten Safety Violations for FY 2022 at NSC Congress



The **Occupational Safety and Health Administration** announced recently its preliminary **Top 10** most frequently cited workplace safety standards for fiscal year 2022. **NSC Safety+Health** Associate Editor Kevin Druley introduced Patrick Kapust, acting director of **OSHA's** Directorate of Enforcement Programs, who presented the list during the 2022 NSC Safety Congress & Expo, the world's largest annual gathering of safety professionals. **Fall Protection – General Requirements** remains at the top of the list for the **12th year in a row**, followed by **Hazard Communication** and **Respiratory Protection**. **OSHA's** fiscal year ends Sept. 30.

“OSHA's annual Top 10 list helps define trends so safety professionals can find the appropriate solutions,” said Lorraine Martin, NSC president and CEO. *“Despite advancements in workplace safety, we continue to see the same types of violations each year. It's more important than ever employers seek education and resources to keep their workers safe.”*

The **Top 10** most frequently cited workplace safety standards for FY 2022 are:

1. *Fall Protection – General Requirements (1926.501): 5,260 violations*
2. *Hazard Communication (1910.1200): 2,424*
3. *Respiratory Protection (1910.134): 2,185*
4. *Ladders (1926.1053): 2,143*
5. *Scaffolding (1926.451): 2,058*
6. *Lockout/Tagout (1910.147): 1,977*
7. *Powered Industrial Trucks (1910.178): 1,749*
8. *Fall Protection – Training Requirements (1926.503): 1,556*
9. *Personal Protective and Lifesaving Equipment – Eye and Face Protection (1926.102): 1,401*
10. *Machine Guarding (1910.212): 1,370*

Construction Safety Programs Need to Include Physical, Mental Wellness

Leaders in the construction industry need to re-examine their safety programs to ensure both physical and psychological health are incorporated and addressed.

The pandemic shifted almost every aspect of business and life over the last two plus years. One of the biggest shifts in the workplace has been the new focus on prioritizing the overall health and well-being of employees.

In construction, making sure everyone on-site—and in the office—goes home safely each night is the No. 1 priority. That is why leaders in the industry need to re-examine their safety programs to ensure both physical and psychological health are incorporated and addressed. Both are equally important, and it is vital to treat mental health the same as physical health—with awareness and acceptance, and without judgment, blame, or stigma. It has also been proven that improving worker safety from a mental health and well-being perspective can lead to a significant reduction in safety incidents.

If your safety program hasn't already evolved to support psychological health, now is the time. Using the lessons learned from the last two years, leaders can implement a holistic approach to safety at their organization that better helps support the overall health and well-being of employees. And while it is the right thing to do, it is also critical, as the construction industry experiences the [second highest rate of suicide](#) among major industries. In addition, nearly 60% of construction workers recently reported struggling with mental health but only a third said they would communicate it to their employer. Here are three ways leaders in construction can support psychological health of their employees and integrate support into their safety programs.

Show and Lead by Example

To cultivate and grow a culture of care that enables everyone to look out for and support each other eliminating the stigmas around mental health, the example needs to be set from leaders at the top.

For a top down approach to be effective, leaders, executives, managers, and decision makers must be educated on how to understand the psychology of human behaviors and decisions.

Understanding why competent, experienced people do unsafe things is imperative to driving an engaging, holistic safety program. The key to this is understanding that the old management style of mandating expectations—without empathy—is ineffective today. The pandemic has underlined the fact that in order to be productive, reach their fullest potential, and perform work safely, people first need to feel safe and secure.



Encourage leaders to start meetings, company and department touchpoints, and jobsite toolbox talks with discussions or activities involving mental health. Clearly establish safety expectations, provide clear direction, and establish accountability. It's

important for leaders to regularly communicate all available resources—as not everyone will feel comfortable speaking up in a group or one-on-one setting—destigmatizing the act of asking for help and encouraging workers to seek the assistance they need. Resources such as an employee assistance program (EAP) that offers counseling and referrals along with information and resources on emotional, financial, legal, family and work-life issues, are great tools that can help support the mental health of employees.

Operationalize Total Worker Health and Safety

Safety programs are always evolving to proactively address anticipated risk and need. Psychological safety topics, programs, and resources should also evolve as part of a safety program. Add in total worker health topics that are timely, relevant, and address mental health support in the workplace to make programs as effective as possible.

One channel to integrate total worker health topics into is toolbox talks. Toolbox Talks focus on safety from a psychological, mental health, and general well-being standpoint. New topics are constantly added, and content is regularly refreshed. Shared company-wide on our jobsites and in our offices, topics include empathy, mental health awareness (including PTSD and suicide prevention), racism, and sexism. Jobsite signage is provided that reinforces these learnings and topics, including resources that are accessible to everyone.

(cont'd)

Integrate Mindfulness

The **vast majority** of **workplace injuries** and accidents are **caused by lack of awareness** or focus, **distraction**, and **going on autopilot**. That is why, to **work safely** on a jobsite, each action **needs to be thoughtfully considered**.

Given this, the **practice of mindfulness** is essential in **construction**. Mindfulness—the **psychological process** of bringing **one's attention** to **experiences** occurring in the **present moment**—can **help workers prevent** these behaviors so **they can work safer** and better. **Mindfulness creates** the space **between the stimulus** and **response** that is **critical for a safe** reaction to a potentially **dangerous situation**—allowing a **person to be fully alert**, aware, and **able to make the best decision possible**.

Mindfulness **takes practice**—it's **not just the flip** of a switch. Provide **teams the tools** to **learn how** to recognize **inattentiveness** and **become aware** of the present **moment**; regularly **provide workshops** and online **trainings** that lead people through the **practice of mindfulness**.

Mindfulness **helps teams build** stronger **bonds by creating** the space to be **empathetic**, helping to **foster an inclusive** workplace environment. **People become more comfortable asking for help** and sharing ideas—without **judgment**—which **opens the door** for more **candid** and **regular safety conversations**.

This leads to **enhanced learning** and awareness, and **ultimately ensures critical** information is **received before a safety** incident occurs.

Creating and **maintaining a construction safety program** that focuses on **both physical** and mental health can **help ensure** that everyone **not only goes home safely** every day, but **also improved**, allowing them to **come back even better** the next day.

National Safety Stand-Down

To Prevent Falls in Construction

Save the Date:

The next annual **National Safety Stand-Down to Prevent Falls** will be held May 1-5, 2023.

Visit the [campaign webpage](#) for updates.

Do your part to prevent every workplace fall hazard!

SAFETY Q&A

Q What if someone claiming to be **OSHA** calls my business and tells me I have to pay them for required **OSHA** resources? Is this legitimate?

A Be alert to **scams and fraud** this time of year. If **someone calls** you and **requests money** for **OSHA** resources, it is a **scam**. Although **OSHA** never **requires payment** for any of the **agency's publications**, employers have **reported receipt** of "*official looking*" **announcements**, as well as threatening notices, **messages**, or telephone calls from **companies falsely claiming** employers must purchase **OSHA documents** to remain in **compliance with federal safety** rules and regulations. The item **most frequently offered** for sale is the [free OSHA workplace poster](#). To report **these types of fraudulent offers**, visit the **Federal Trade Commission's** [webpage on government imposter scams](#). To get **more information on specific workplace safety and health requirements**, please visit the **OSHA website** or contact your [local OSHA area office](#).

How Wearable Technology Can Improve Safety on the Jobsite

Using the Internet of Things, construction firms can improve the safety of their workers and the jobsite.

The construction industry employs nearly 8 million people in the U.S. as of August 2022. Recent statistics show that the industry continues to grow, with more than 32,000 jobs added in July of 2022. Despite setbacks with labor shortages, material price hikes and supply chain disruptions, construction spending on buildings was projected to increase by over 9 percent in 2022 and another 6 percent in 2023, according to the American Institute of Architects. With so many people employed in construction, it is no wonder that safety is the No. 1 concern at construction jobsites.

The Occupational Safety and Health Administration (OSHA) cites that falls account for the most significant number of fatalities in the construction industry. "Struck-by" incidents are listed as the fourth biggest cause of injuries at jobsites, and more than 75 percent of these involve heavy equipment. While most construction firms follow safety protocols and regulations to minimize risk and injury, accidents will still happen.

Construction zones pose a danger to anyone who enters the area. On any jobsite, construction workers move around the site on foot. Workers must dodge equipment speeding through the site carrying loads of aggregate, cement or other heavy materials. The heavier the equipment is at the site, the more probability there is for injury of a worker walking through the site.

If a person wanders through a construction zone while distracted, they can easily be injured. Many sites have few roads for equipment to travel on, so a person could easily walk in front of a truck or be sideswiped by it. Drivers may not see an individual walking in front of their truck. Or the driver may have to swerve to avoid pedestrians and wrecking the vehicle. Many construction firms are turning to technology to reduce risk and accidents.

Sensor Technology in Construction

Technology in the form of IoT devices (Internet of Things), such as telematics equipment or wearable sensors, can help reduce accidents. These devices provide information on a location where equipment and staff are located at all times, in real-time. Construction managers can know at any instance where a piece of equipment or a worker is positioned. If workers are in a dangerous area, they can be notified that they need to move. If a piece of equipment is where it shouldn't be, managers can see where the equipment is and determine whether it has been stolen or used by an unauthorized person.

Telematics Devices

Telematics devices are embedded in heavy equipment, allowing contractors to monitor the location of a piece of equipment and verify speed, driver safety, and equipment health.



Telematics incorporates GPS positioning to track equipment location, fuel usage, engine speed, and other meter readings. By incorporating this data into construction equipment tracking software, contractors eliminate the double-entry of information, which can lead to errors. Telematics devices follow geofences so that equipment stays within the boundaries of the jobsite.

With telematics, construction companies can see if their employees are driving and operating equipment safely and prevent loss or theft by receiving alerts when equipment is used during odd times or moved off the job site. Managers can be alerted and deal with issues on the spot if an employee is driving recklessly.

Schedule preventative maintenance based on usage and adjust the usage to avoid unnecessary runtime. Maintenance management systems can configure preventative maintenance alerts to track when a piece of equipment needs to undergo routine maintenance. When a piece of equipment is coming in for an oil change, management can schedule time in advance to handle any other issues identified through reports from the field.

Preventative maintenance can be hard to track and lead to poor equipment utilization. Maintenance management systems easily keep track of maintenance schedules, so equipment is appropriately maintained. Properly maintained equipment reduces downtime and keeps equipment in the best shape possible. Well-oiled machines mean safer equipment, too.

Wearable Technologies

Wearable technology can help construction workers do their jobs safely. Wearables can warn management when workers are close to a danger zone on the jobsite. Wearables come in a variety of options. They can track the workers' health while also tracking productivity. Construction firms must determine which wearables should be used to achieve specific goals. Top safety wearables include:

- **Smartwatches:** Track health and activity; some can send alerts and offer hands-free communication. Other smartwatches can detect falls and dial emergency operators on the workers' behalf. Still, others can track the worker in a map view so that management will know where the worker is on the jobsite. Smartwatches allow construction workers to communicate hands-free, such as sending messages that they have fallen and must be rescued.
- **Smart Boots:** Like smartwatches, can track a worker's movements while walking around a jobsite. The boots feature internal and external sensors for receiving and sending alerts, such as calls for help if the worker is injured or alerts that the worker is in an unsafe area. Sensors in the sole of the boots can detect falls. One vendor offers a safety pod that attaches to any boot or shoe.
- **Smart Hard Hats:** These hard hats look like any other hard hat, except they have embedded smart sensors that monitor workers' movements and surroundings. They can send an alert in the event of danger, while sensors in the hat share

information about the workers' location. Some smart hats can measure vital signs to detect whether a worker is overly heated or too fatigued. Proximity sensors in heavy equipment and hard hats can alert supervisors and workers to potential collisions. One construction firm used a smart hat to trace where a COVID-infected worker had worked and whom he had interacted with.

▪ **Augmented Reality (AR) Glasses:** Most jobsites require workers to wear safety glasses; AR glasses are the next generation. Future smart glasses offer the same benefits as a smartphone, only hands-free. Smart glasses can reduce accidents by flashing warnings about objects, materials, or areas that should be avoided. AR smart glasses can be used in training, giving instructions on operating equipment while workers perform those operations. Smart glasses are also being combined with Building Information Modeling (BIM) tools so workers can walk through a jobsite and check progress against the BIM model.

▪ **Smart Monitor:** These can be worn on parts of the body to track dangerous gases, monitor temperatures, check heart rates, and more. Sensors around the chest detect body temperature and can alert workers when they need to take a break. Other monitors can detect dangerous gases and alert workers as to potential exposure. Wearable safety monitors collect valuable data, such as movement, noise levels, and air quality, while the worker is wearing them. If the worker makes a dangerous movement, they will be alerted.

▪ **Smart Gloves:** Are new in the market and help wearers correctly perform tasks. Some smart gloves have embedded scanners in the fingertips to relay the correct part or tool to use in a repair. If the worker has picked up the wrong tool, they receive vibration feedback that alerts them to their mistake.

How Do Heated Jackets Work?

This type of winter jacket uses a battery to generate heat via copper or aluminum wires around the jacket. Heated jackets can last for 30 minutes to 10+ hours, depending on the capacity of the battery.

Construction sites are exposed to harsh, freezing weather during the winter. One of the best ways to stay warm in these conditions is to wear a heated jacket.

Heated jackets are work jackets with built-in electric heating. The components of a heated jacket include:

- Shell
- Power source (battery)
- Padding
- Insulation
- Heating element (copper or aluminum wires)

During use, the battery powers the heating element. The heating elements generate and distribute heat around the jacket. Padding and insulation keeps the generated heat inside the jacket, making the process more efficient. Most heated jackets are made of synthetic polyester. This material is moderately water resistant, which protect the internal heating elements and battery from water-related damage. Polyester does not absorb moisture, helping you stay dry while working.

A benefit with wearing a heated jacket on a construction site is reduced bulk. Heated jackets are not thick, and you don't have to wear extra layers to stay warm in cold worksites. This can help you move around easily when doing demanding tasks, such as lifting objects or using heavy-duty tools. If you operate work vehicles, such as excavators or dozers, wearing a heated jacket can save space inside tight cabins.

Heat Settings

Heat settings typically range between 100°F to 140°F, depending on the type of jacket. Consider that some jackets only have one heat setting. Heated jackets with adjustable or multiple heat settings are recommended if your work requires you to shuffle between indoor areas with centralized heating and open, outdoor locations. Having heat settings can prevent you from sweating inside your jacket when temporarily working in an area with heating.

Are Heated Jackets Safe?

Yes, heated jackets are safe when used properly. This type of winter jacket uses a battery to generate heat via copper or aluminum wires around the jacket. Small batteries are low voltage DC power sources, so you don't have to worry about electric shock from the jacket when getting wet. For added protection, the wires are wrapped in lining and insulation. If you work in rugged worksites, proactively check the surface of the jacket every few weeks to make sure wiring components are not damaged.

How Long Do Heated Jackets Last?

Heated jackets can last for 30 minutes to 10+ hours, depending on the capacity of the battery. Some heated jackets are equipped with a rechargeable battery, which can save you money over the long term if you intend on using the heated jacket every day. Running out of juice on a heated jacket with a rechargeable battery can dampen morale on the jobsite, especially in freezing conditions. The feeling is very similar to your phone or portable music player running out of battery when you need to use it. Taking this into consideration, you should choose heated jackets with long runtimes for added reliability.

To get the most out of a rechargeable heated jacket, carry around a portable USB battery bank in your pocket. This would allow you to charge the batteries of the jacket at the construction site, minimizing downtime.



How is Construction Workwear Evolving to Meet the Needs of Women?

The most recent **U.S. Bureau of Labor Statistics** indicate that **women now make up 14 percent** of the construction industry.



“While this is still a small portion of the industry overall, this is a **huge step in the right direction**, especially when you consider that the **percentage of women in the industry was stuck between nine and 11 percent** for a number of years,” points out Makenzie Plusnick, **National Association of Women in Construction (NAWIC)** spokesperson.

“We hope to see this momentum continue and more women joining this diverse industry,” she adds.

However, there remains to some extent a **gender bias** in the **special apparel and gear required** for construction work that has **historically favored male** construction workers.

“For years, many workwear companies prescribed to the ‘**shrink it and pink it**’ method,” says Plusnick. “**There are a few problems with this method, including comfort and safety. Shrinking menswear does not account for the differences between male and female bodies, which not only can cause discomfort, but ill-fitting workwear can also be a safety hazard while on a worksite.**”

“From **ill-fitting workwear snagging** on things on **jobsites to discomfort that can turn into a bigger issue** in the long run, **women deserve to have clothes that fit them and that they feel confident and comfortable wearing.**”

Addressing Safety with Design

The ‘**shrink it and pink it**’ topic was addressed extensively in a **recent Harvard Advanced Leadership Social Impact Review** article written by Karen Korellis Reuther, a **former creative executive at NIKE and Reebok** who is a **Senior Fellow at Harvard University’s Advanced Leadership Initiative** in Cambridge, Massachusetts.

Korellis Reuther – who argues that “**women aren’t just smaller men**” explains that ‘**shrink it and pink it**’ is a common phrase used in the **product creation world for designing products for women.**

Women have **far too long been given no choice but to wear products designed by men for men that were merely scaled down and colored pink or another stereotypical feminine color** – something she says at best is insulting and at worst, dangerous and **deadly**. Korellis Reuther notes that a **critical stage in footwear design is the choice of a shoe last**, defined as the **starting point of every shoe design**. The **shape of the last determines the fit, performance, ergonomics, and shoe style** and is what **makes it suitable for its intended use.**

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Protective boots, she notes, should be **designed based on the foot shape and dimensions** of the actual population, with **consideration of sex differences** and the impact of **weight-bearing for their safety, with the selection** of the last needing to **consider function and gender first.**

The use of **state-of-the-art technologies**, policies that address **design inequalities**, and more **women designing** for our built world all need to be **activated** to deliver **design justice for women**, says Korellis Reuther.

She says in her career as an industrial designer, “**form always follows function**”. She points out that **technologies – including 3D body scanners – currently exist** that can provide **accurate data for all body shapes and sizes.**

“Policy that **mandates its use in the design** of this equipment can **guarantee that the safety** of our **female workers is valued equally to their male counterparts**,” she writes, adding that “**we all must insist that products provide a safe, inclusive, and hospitable experience for her.**”

New Opportunities

Many companies have **stepped up to the plate acknowledging the need for women in construction to have their own clothing**. Some, such as those offered by **Dovetail Workwear**, are **designed for women by women.**

Addressing how women’s needs such as construction site clothing need to be catered to directly so as to **encourage more women in construction, Plusnick notes** that “**until the construction industry recognizes that women are a vital part of construction – which many companies are starting to do – we cannot achieve equity** in the industry. “**That not only includes workwear, but also fair treatment from employers and colleagues, equal chances at upward mobility, and so much more.** Construction has been **male dominated for so long, but we have the opportunity to create change. NAWIC challenges each construction company to make a conscious and intentional decision to look inward and see where they are lacking and how they can better support equity within their companies.**”

Check Out These Brands

Making Maternity Construction Clothes

Working on construction sites is hard. Working on construction sites while pregnant is even harder. Fortunately, there are manufacturers catering to the workwear needs of soon-to-be mothers.

For the longest time, it has been challenging for women in the construction industry to source clothing that fits them for comfort and safety. Until recently, the approach of apparel manufacturers has been to ‘**shrink it and pink it**’.

Add to that challenge finding maternity construction clothes that accommodate a pregnant woman’s changing body. Fortunately, **these manufacturers** have risen to the occasion.

Reminder - Revised Federal Drug Testing Custody and Control Form Mandatory



- ▶ As of August 30, 2021, DOT-regulated employers and their service agents [collectors, laboratories, Medical Review Officers (MRO)] must use the '[revised CCF](#)'. ◀

[Learn more](#) about what this means for DOT drug testing.



COLORADO
Department of Revenue

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

DOT Implements Annual Regs Violation Penalty Increases

The Department of Transportation published a final rule in the *Federal Register*, Monday, March 21, 2022 updating the civil penalty amounts (*effective immediately*) that may be imposed for violations of certain DOT regulations, including **Federal Motor Carrier Safety Administration** regulations focused on in trucking-company audits.

[The updated fines for FMCSA regulations violations can be seen here.](#)

PHMSA Reduces Minimum Random Drug Testing Rate for Covered Employees in 2023

The **Pipeline and Hazardous Materials Safety Administration (PHMSA)** has announced that the minimum random drug testing rate for covered employees will be reduced to 25 percent in 2023. This change will be effective from January 1, 2023, through December 31, 2023. No other DOT modality has made rate changes.

DISA Customers

DISA customers with a PHMSA program and testing set to the 2022 minimum random rate of 50 percent will automatically have their programs updated to 25 percent before random selections are generated for the first quarter.

Any customer who elected to have a PHMSA random selection rate that exceeds the 2022 minimum random rate of 50 percent will not have their rate adjusted automatically. If you need to modify your rates, please contact DISA by emailing clientupdates@disa.com.

Why PHMSA is Making a Change

You can read the full order published in the *Federal Register* [here](#).

Read more and [download](#) the pdf.



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Crime Prevention for Truckers Study



BACKGROUND

FMCSA initiated the **Crime Prevention for Trucker Study** ([pdf](#)) to understand the nature and prevalence of harassment and assaults against truckers. Harassment, in this study, is defined as the threat of harm or actual physical harm perpetrated against a trucker, their possessions, vehicle, or cargo.

OBJECTIVES

The study's goals are to determine the prevalence of threats and assaults against minority and women truckers, to identify trends, and to understand potential impacts to the current truck driver shortage.

METHODS

The project team first performed a literature review on the topic. The literature review was followed by the development of an online survey to collect data. The data collected pertained to three driver groups:

- 1) **women truck drivers**
- 2) **minority male truck drivers**, and
- 3) **non-minority male truck drivers** (control group).

Statistical analysis was performed using the collected data to determine if the nature and frequency of crimes committed against women and minority male truck drivers differ significantly from the control group of non-minority male truck drivers.

FINDINGS

The following summarizes the findings from the survey data collected and analyzed.

The nature and frequency of harassment against truck drivers

Harassment against truck drivers is prevalent. Being called undesirable names (59% of women, 52% of minority males, and 51% of non-minority males) and receiving threatening words (38% of women, 40% of minority males, and 44% of non-minority males) are the most common forms of harassment. Relative to men (8% of minority males and 14% non-minority males), women truck drivers (33%) are exposed to more sexual harassment.

Where and when do these incidents occur

Harassment is more likely to happen at truck stops (23 to 30% depending on gender and minority status), places where truck drivers pick up or deliver cargo (15 to 17%), and fueling stations (9 to 11%). In addition, the respondents mentioned that crimes are more likely to happen in urban areas (42 to 56%) compared to rural areas (26 to 35%).

Harassment against women truck drivers is particularly more likely to happen at night (after 12 a.m. to 6 a.m.).

Characteristics of the aggressors

The individuals committing the harassment are more likely to be other truck drivers whom the victims did not already know (e.g., 31% of women, 27% of minority male, and 34% of non-minority male truckers who were victims mentioned that the perpetrator was another truck driver whom they did not know before). Relative to

men, women truck drivers are more likely to experience harassment from another truck driver at their company (15%) or their trainers (11%).

How many of these incidents go unreported and why

About half of the harassments go unreported (i.e., 42% of women, 57% of minority males, and 51% of non-minority males choose not to report the harassment). The reason given was that they did not think that it would make a difference (29 to 38%), or they have to deal with it anyway (17 to 38%).

Statistical analysis comparing crimes among the trucker groups

Statistical analysis of the survey data did not find a statistically significant difference in the experience of harassment overall between women and minority men compared to non-minority men. This combined measure refers to at least one incident of occurrence in any of the six specific harassment categories over the preceding two years. However, statistically significant differences did arise in two harassment categories. Women truck drivers were found to be two to four times more likely to report being touched without permission compared to non-minority men. Minority women were up to nine times more likely to report being physically harmed compared to non-minority men. Similarly, non-minority women are two to six times as likely than non-minority men to be touched without permission.

SURVEY PARTICIPANT SUGGESTIONS

The following are based on the survey participants' suggestions and recommendations.

Enhance safety at existing trucking facilities

Providing adequate lighting and security features to existing truck parking lots, fueling stations, truck stops, and docking areas of shippers and receivers should be the priority. Restrooms should be located closer to parking entrances. Presence of safety patrol and law enforcement is beneficial for safety.

Provide additional parking facilities

The majority of survey participants suggested that many of the crimes that happen against truckers are the direct result of limited parking availability, especially in urban areas. In some cases, truck drivers resorted to parking their trucks on freeway ramps and abandoned lots, putting them at increased risk of accidents and crimes.

(cont'd)

Allow firearm carrying in the trucking industry

Many respondents mentioned that they would feel safer if they were allowed to carry a firearm. However, policies of many trucking companies, shippers, and receivers do not allow truckers to carry firearms in their trucks. Also, State laws on carrying firearms vary significantly. Many truckers suggested a regulation prohibiting carriers, receivers, and shippers from barring truckers to carry legally owned firearms. Note: regulatory and policy changes related to carrying firearms are beyond the purview of **FMCSA's** authority.

Improve communication within the trucking industry

Truck drivers, dispatchers, carriers, and customers need to communicate to choose a travel plan that is efficient and safe, e.g., delays and scheduling conflicts at shipper and receiver facilities force truckers to park in unsafe locations.

Provide personal safety training to truck drivers

Many respondents indicated that they never received any type of training on personal safety and protection. Therefore, truck drivers could benefit from personal safety, security, and protection, as well as self-defense programs.

Develop educational material to increase awareness

Educational material that promotes the safety of truck drivers is needed. The material should address topics such as how to recognize, prevent, interject, and report crimes. The educational material can also be directed to trucking companies, encouraging them to have a clear and zero-tolerance policy against harassment.

Read the [complete study](#).

FMCSA to Issue More Warning Letters for Unsafe Driving BASIC

Unsafe Driving is one of the seven **Behavior Analysis and Safety Improvement Categories (BASICS)** in **FMCSA's Compliance, Safety, Accountability (CSA)** program. **FMCSA** regards **Unsafe Driving**, along with **Hours of Service Compliance** and the **Crash Indicator**, as one of the **three most critical BASICS**.

Previously, **carriers received warning letters** when their **scores** for this **BASIC** reached a **threshold of 50%** for passenger carriers, **60% for hazardous materials carriers** or **65% for all other carriers**. Now **all carriers, regardless of category**, will receive a **warning letter** when their **Unsafe Driving BASIC** score is **50% or above**.

What is Unsafe Driving?

The **Unsafe Driving BASIC** calculates its **score based on violations** for **unsafe on-road behaviors**, including:

- *Texting*
- *Speeding*
- *Using a hand-held cell phone*
- *Reckless driving*
- *Failure to wear seat belts*
- *Improper lane change*
- *Inattention*

FMCSA clearly **noted the recent National Highway Traffic Safety Administration (NHTSA)** report on the **dramatic rise in highway fatalities** in the **first half of 2021**, and the **2021 Operation Safe Driver Week** results from the **Commercial Vehicle Safety Alliance**, where **1) speeding**, **2) failure to wear seat belts**, and **3) failure to obey a traffic control device (running a stoplight or stop sign)** were the **top three violations** among **motor carriers**. These violations **all fall under the Unsafe Driving BASIC**. **FMCSA** chose to **alert more carriers** to these **safety issues** before **unsafe driving practices** led to **FMCSA intervention or worse**, highway crashes.

What Should a Carrier Do Upon Receiving an FMCSA Warning Letter?

FMCSA sends **warning letters** to make **motor carriers aware** of deficiencies in **safety performance**. While the **agency does not require** carriers to **respond in writing**, the **warning letters should trigger these carrier actions**:

- *Log onto the **CSA Safety Measurement System (SMS)** website and examine individual carrier **CSA** data or sign up as a member of **North American Transportation Association** for **FREE** safety Consulting.*
- *If there are any inaccuracies, challenge them through **NTA's CDL Legal & DataQs**;*
- *If non-preventable crashes are shown, use the **FMCSA Crash Preventability Determination Program** to have them removed from **SMS** calculations;*
- *Take careful note of the identified unsafe driving practices, and follow the steps to improving the **Unsafe Driving BASIC** score.*

An **FMCSA warning letter** is a **heads-up alert**. More carriers **will now receive warning letters** about their **Unsafe Driving BASIC** scores. **Pay attention**. Actions **carriers take in response** can **improve** their **Unsafe Driving BASIC** score and **their overall SMS score**. Improved scores can **preclude an FMCSA intervention** and may help the **motor carrier qualify for a better ISS score**. Most important, **improved driving practices** can **prevent crashes** and **save lives on the highway**.

Exemptions... what's new?

Trucking Alliance: DENIAL OF HAIR-TESTING

EXEMPTION OFFERS 'CLEAR ROAD MAP'

Proponents of hair-testing for federally required drug testing of truck drivers have had another setback with the denial of a petition to the **Federal Motor Carrier Safety Administration** ... Or have they?



In a [notice](#) (*pdf*) scheduled to be published in the *Federal Register* Dec. 23, **FMCSA** announced its decision to deny a request for a waiver from **The Alliance for Driver Safety & Security**, also known as the **Trucking Alliance**.

The **Alliance** wanted its **motor carrier members** to receive an **exemption** from the **Federal Motor Carrier Safety Regulations** to amend the definition of "actual knowledge" to include the employer's **knowledge of a driver's** positive hair test, which would require such results be reported to the **FMCSA Drug and Alcohol Clearinghouse** and to **inquiring carriers**.

The **Trucking Alliance carrier members** include *Cargo Transporters, Dupré Logistics, Frozen Food Express, J.B. Hunt Transport, KLLM Transport Services, Knight Transportation, Maverick Transportation, Schneider, Swift Transportation, US Xpress, and May Trucking Company.*

These **carriers believe** that **hair testing enhances public safety** by **providing a longer detection window for controlled substance use** and by **minimizing the opportunity for fraud** in the currently **mandated urine specimen** collection process.

Because **hair testing is more reliable** and accurate than **urine testing**, said the **Alliance's petition**, it is the **"appropriate drug testing method for preemployment and random testing protocols."**

FMCSA analyzed the **application and public comments** and **determined** that the agency **lacks the statutory authority** to grant the exemption request.

The **denial gives the Alliance** "a clear road map," said Lane Kidd, **managing director** of the **Trucking Alliance**, in an **email to HDT**.

"**FMCSA** doesn't **question the merits of hair testing**, only that it **does not yet have the authority to grant the application**," Kidd explained. "When **HHS issues a final hair testing rule next year**, **FMCSA will have its authority**, and can **include hair test results** into the **Clearinghouse** under its **definition of an employer's "actual knowledge"** of a **truck driver's drug use**. When **FMCSA** completes its **own rulemaking**, **employers will be able to drop urine testing** in favor of **only the hair test**. So, we expect to **finally achieve our objective next year**."

Why Hair Testing?

As **TruckSafe Consulting President** Brandon Wiseman explained in an article, many carriers, including those who filed this petition, have been using hair testing as a supplement to their **DOT testing process**.

"In other words, they go above and beyond what the regulations require of them by **conducting non-DOT hair tests** in addition to the **DOT urinalysis tests**," he said. "This is **permissible under the regulations**, so long as the **hair tests are in addition to the urine tests**. If one of **these hair tests** returns a **positive result** but the **urine test is negative**, the **carrier can take action** to terminate or **discipline the driver** under its **own independent authority** as the employer, but it **cannot report the result** of that **test** to the **Drug/Alcohol Clearinghouse** or to **future employers** of that driver, since it is **not an approved test type**."

The **Alliance** contends that **not having these tests** in the **Clearinghouse** negatively **affects safety**, allowing **drivers to cheat on urine tests** or to **abstain from drugs long enough** to pass the **pre-employment test**.

In October, the **Alliance** released **results of research** it conducted on the **effectiveness of hair versus urine tests**. The study examined differences **between hair and urine drug test results** by **sampling 172,632 pre-employment hair and urine drug screens** that were administered in **2021 by seven carrier members** of the **organization**.

"If **participating carriers** did not use **hair testing**, they likely **would have hired 3,959 drivers that failed hair tests**," said the **organization** in an **announcement**. "It is likely these **individuals are now driving** for another carrier, given **hair testing results** cannot be **submitted to the Drug/Alcohol Clearinghouse**."

"**Eleven times more truck drivers fail a hair test for illegal drugs** than the **DOT-required urine test**," said Kidd in that **announcement**. "That equals **thousands of truck drivers**. And **DOT** doesn't know their names."

(cont'd)

The Long Road to Hair Testing Approval

When **FMCSA** published the **notice** of the **Alliance's** request for a **waiver**, the agency said it **currently lacks the statutory authority** to grant the **Trucking Alliance's** request for **exemption** because the **Department of Health and Human Services** has not yet **issued final Mandatory Guidelines** for **hair testing**.

In 2015, the **Fixing America's Surface Transportation Act (FAST Act)** required **HHS** to issue **scientific and technical guidelines** for **hair testing**, no later than **one year after** this act. **HHS** finally **issued a proposed rule** in 2020, **widely criticized** by **hair-testing proponents**.

The **proposed rules would allow** the use of **hair testing for pre-employment and random testing**. However, the **proposal would require** the collection and **testing of at least one other specimen type**, such as **urine or oral fluid**.

Using a **urine test to corroborate** isn't the answer, said critics. At the **time of the HHS 2020 proposal**, P. Sean Garney, vice president, **Scopolitis Transportation Consulting**, told HDT, "*Congress required HHS to develop this rule because our urine-based drug testing system is easily defeated. Hair testing isn't. The problem is that this proposal really only allows the use of hair testing to identify negative tests. All positive tests must be confirmed using the system Congress was seeking to improve.*"

In their **comments filed** on the notice, the **Trucking Alliance** and **several of its member companies** said **nothing in the federal**

statute prohibits FMCSA from **implementing what Congress specifically directed** the **Secretary of Transportation** to do — **recognize hair testing as an acceptable alternative to urine testing**.

The **DOT** also has **proposed adding oral testing** to the **approved drug-testing methods**.

What is 'Actual Knowledge'?

"**Actual knowledge**," as defined in [49CFR382.107](#), means an **employer's actual knowledge** that the **driver has engaged in the prohibited use of alcohol or controlled substances**:

- *They directly observe a driver using alcohol or controlled substances.*
- *They receive information provided by the driver's previous employer(s)*
- *They are aware that a driver was issued a traffic citation for driving a commercial motor vehicle while under the influence of alcohol or controlled substances*
- *The employee admits alcohol or controlled substance use, except as provided in [49CFR 382.121](#).*

This does not include observation of **employee behavior** or **physical characteristics sufficient to warrant reasonable suspicion testing**.

Training Exemption Requests Denied



FMCSA also denied petitions from **two truck driving schools** seeking **waivers from certain provisions of the Entry Level Driver Training regulations**.

SBL Truck Driving Academy sought an **exemption from the theory and behind-the-wheel instructor requirements** contained in the **ELDT regs** for **two of its instructors**. **SBL specifically requested** to be **allowed an exemption from the requirement that instructors have at least two years of experience in order to**

train a driver seeking an equivalent CDL/endorsement level.

SBL "presented insufficient evidence," FMCSA said, in **order to demonstrate** the academy could **meet or exceed the level of safety achievable by complying with the reg**.

A **separate request** from the **Western Area Career and Technology Center (WACTC)** sought the same for its **theory and behind-the-wheel instructors**. The provider said in its **request it wanted to use an instructor with less than two years of CDL driving experience**, adding that it **has been difficult to find qualified instructors**. **WACTC stated in its request that the instructor would meet the ELDT regulation's requirement for two years of driving experience with a Class A CDL in August 2022**.

FMCSA noted the **request was now moot**, but **declined to issue an exemption** in fear that it might **"open the door for similar exemption requests on a widespread basis,"** which would **go against the goal of the regulations**, the agency added.

FMCSA Denies Livestock Haulers' Request For Longer Work Hours

Nov 19 2022

The **Federal Motor Carrier Safety Administration** has denied a request from several agricultural groups seeking an exemption from certain hours of service provisions. The requested exemption was made on behalf of drivers who transport livestock, insects and aquatic animals.

Groups seeking the waiver included the National Cattlemen's Beef Association, Livestock Marketing Association, American Farm Bureau Federation, American Beekeeping Federation, American Honey Producers Association and National Aquaculture Association.

The request would have allowed drivers, after 10 consecutive hours off duty, to be on duty for 16 hours after coming on duty, and to drive a total of 15 hours during that 16-hour period.

The groups filed the exemption request in February 2019. At the time, regulations allowed livestock haulers to operate within a 150-air-mile radius of the source of the agricultural commodity, and time spent operating within that radius did not count against a driver's daily and weekly hours limits.

The 2021 Bipartisan Infrastructure Law added to that to also include a 150-air-mile radius of the load's destination. Livestock haulers also remain exempt from the electronic logging device mandate, **FMCSA** said.

"If the agency were to grant the exemption, drivers transporting agricultural commodities would be allowed six or more hours of driving time within the 150-air-mile exempt zones for the transportation of agricultural commodities, in addition to the 15 hours of driving time outside the zone," FMCSA said in its denial. "The agency finds that allowing 21 or more hours of driving during a work shift would not likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent the exemption."



New Trucker-Focused Urgent Care, Telehealth Service Launching

Plans are in the works to create a new network of healthcare clinics aimed at serving truckers, other travelers, and people living in rural areas. Part of its financial backing comes from trucking industry executives.

Interstate Health Systems announced its intent to establish a network of primary care, urgent care and telemedicine services along the nation's interstate highway system. An oversold pre-seed investment round brings the medical services company one step closer to breaking what it calls the long-standing healthcare barriers faced by the nation's 3.5 million professional truck drivers and introduces a new model for serving the healthcare needs of rural Americans and interstate travelers.

With its initial funding in place, **IHS** said it will begin opening 60 clinics over the next two years. Additionally, it will deliver a technology platform that integrates with trucking company platforms and includes services such as real-time telemedicine and a unified prescription service network.

The organization also announced it plans to build more than 300 urgent care clinics in the next six years located near truck stops and travel centers serving truck drivers, the traveling public and the underserved communities living nearby.

The company said it has received financial backing from various private investors, many of whom are veteran transportation and technology industry executives, including leaders from Estes Express Lines, Hirschbach Truck Line, Melton Truck Lines, Quality Distribution, Forward Air and others.

IHS is led by healthcare industry veteran Jeff Seraphine, who is serving as the company's CEO. Seraphine formerly served as chief development officer and hospital group president for Lifepoint Health and has more than 25 years of hospital and healthcare system executive leadership experience.



Winter Safety Checklist for Mines

At the **Mine Safety and Health Administration**, we are urging miners and mine operators to stay alert during winter months when cold temperatures increase safety hazards. Are these **Best Practices** being followed at your mine site?



For surface mines:

- ✓ Clear snow and ice from roads and walkways
- ✓ Apply sand or salt to walkways to improve traction
- ✓ Wear footgear that grips
- ✓ Check for slip and trip hazards
- ✓ Maintain equipment to operate safely in cold weather
- ✓ Drive slowly and keep space between vehicles
- ✓ Examine equipment for exhaust leaks
- ✓ Always wear your seatbelt
- ✓ Check the integrity of highwalls, benches and roadways, especially after each rain, freeze or thaw



In addition to the list above, coal mines should:

- ✓ Properly support roof and be aware of changing roof conditions
- ✓ Properly ventilate the mine
- ✓ Keep clean all combustible materials in mine
- ✓ Apply liberal amounts of rock dust
- ✓ Conduct frequent examinations

Help keep yourself and other miners safe by printing a winter safety checklist poster for your workplace or using our winter alert graphics in email messages and on social media and websites, available at [msha.gov/winter-safety](https://www.msha.gov/winter-safety).

For tips on keeping workers safe from cold stress and related hazards, visit the OSHA's [winter weather webpage](#). Many mining injuries and fatalities could be prevented with proper training and attention to tasks. Review **Best Practices** for common hazards, and report accidents and hazardous conditions at 1-800-746-1553 or email AskMSHA@dol.gov.

Celebrating Miners on National Miners Day

Each December, our nation marks **National Miners Day** to recognize the contributions and sacrifices of America's miners.



At the **Mine Safety and Health Administration**, countless employees are themselves former miners or raised in mining families. We know what Congress meant when it declared that the miner is the industry's most precious resource.

There are thousands of miners working in over 13,000 mines in the United States and they are an invaluable part of our country's workforce. In fact, miners are responsible for supplying the raw materials we depend on for so many basic needs.

Hard-working miners help supply cement, copper, sand and gravel for the construction and transportation industries; coal needed to make steel to build; and the many metals without which our computers, phones and cars would not exist.

In addition to expressing gratitude for miners, we must appreciate and honor the memories of miners whose lives were taken in accidents and mine disasters. We must also remember the thousands of miners who suffered and died too young because of preventable occupational illnesses such as Black Lung disease and silicosis.

In 2022, we launched efforts to better protect miners from immediate dangers at work and the longer-term effects of health hazards such as exposure to silica and coal dust. Health hazards like these are hard to identify, and occupational illnesses develop over time based on a miner's level of exposure.

Because miners' health and safety must always be the top priority, we created our **Miner Health Matters campaign** to inform and educate all miners of their rights to report health hazards and the importance of regular health evaluations. MSHA's **Miner Health Matters** effort also includes our work on a proposed rule to better protect all miners from exposure to respirable crystalline silica, a silica enforcement initiative, and reforms to our **Part 90 program** for coal miners who have already developed pneumoconiosis and have rights to work in a healthier environment. And our **Take Time, Save Lives campaign** provides critical safety information.

We also recently launched a **Miner Safety and Health app** – available on both Android and iPhone devices – that puts safety, health and miners' rights information directly in the hands of miners. These efforts reflect our commitment to our mission and to doing all we can to help protect miners.

National Miners Day gives all of us the opportunity to thank these vital workers and their families for their commitment to taking on the difficult jobs needed to serve our nation's needs.

Discrimination Is A Job Site Safety Issue

Source: *Brandon Noel, For Construction Pros*



A construction site can be **dangerous** for a lot of reasons, and **measures should be taken** to mitigate them **whenever possible**. This includes **on-the-job harassment**, threats, **racial or other kinds** of discrimination. **What can we do about it?**

There are **few subjects more sensitive** than **discrimination** in the workplace, and the fact is, it **can take many forms**. It happens in **every industry**, and the construction industry **is no exception**. The good news is that there are **things that can be done about it**, both from a **managerial** and an **employee position**. Management and **ownership can take** the reigns to **steer the ship** in positive directions, and **employees have tools** at their disposal to **protect themselves** and their **co-workers by reporting** dangerous activity **when it happens**. Let's take a **look at some** of the statistics that **represent the issues** the industry faces, and then some **proactive steps** that can be taken.

By The Numbers

Consider the **reality that African Americans** are **12% of the nation's general workforce**, but in the **realm of the construction industry** it drops to **half that number**. Black employment is **underrepresented**, meaning that there are **fewer black workers** on a given jobsite, on **average**, than in **other sectors**. The disparity for **women in the workforce** is even greater. The most **recent stats show women** make up **46.6% of general labor**, but only **10.9% of construction employment**.

In the **forthcoming Asphalt Contractor Magazine 2023 State of the Road Building Industry Report** (December 2022) *Audrey Copeland*, the president of the **National Asphalt Pavement Association**, says, "**NAPA's 2020 market research** indicated that the **most persuadable audience**—those most **interested in learning** more about the industry—are **women aged 18-24**, without a college **degree or children**. This group wants **financial security** and was most **persuaded by our industry's equity in pay between men and women**."

At least in part, **some of the continued problems with worker shortages** could be **solved right here**. These are **two available and willing groups** of workers who want the **opportunity**, but continue to be **left out of the majority** of hiring decisions—or might there be **other hurdles** worth considering **why they are underrepresented**.

According to the U.S. **Equal Employment Opportunity Commission (EEOC)**, which **handles all areas and types** of workplace **discrimination complaints**, **tens of thousands** of official charges are filed every year, between **60--90,000 annually** (*not just in the construction industry*), dating back to **1997**. **Tens of thousands**.

Over the **last twenty years**, the number of **charges filed under racial discrimination** has **been the top issue** (*excluding general workplace employer retaliation*), never **dipping below 32%** of total cases submitted. **Behind the issue of race**, the second and **third dominant charges** filed are those based on **Gender and Disability**. These **numbers are hard** to ignore, but let's **look a specific scenario** as a **case study of these issues**.

The Details

In a **very recent example**, on September 30, 2022, it was **reported in the news** that the **EEOC filed two separate lawsuits** in the **hard-hit state of Florida**. One was against a **plumbing and HVAC group**, and the other is against a **development and asphalt paving company**.

The **lawsuit alleges** that management of the **asphalt paving company** regularly degraded and **harassed black employees** by flagrantly using the **N-word in reference** to them and **around them**. After being confronted, **not only did it continue**, but an **unnamed supervisor** made it known that, "**we say the N-word here a lot**."

As is **historically the case**, the insults **did not stay contained** to verbal abuse alone. A **black employee** was **allegedly assaulted** by a division manager after they **approached them from behind** and hit them with a **shovel between the legs**. After the **obvious objection** to being **assaulted in such a humiliating** and painful manner, the **employee was fired** later that same day.

The lawsuit **against the HVAC group** contained descriptions of **alleged unfair job assignment** practices, **racial slurs**, and stereotypes being hurled at **black and Hispanic employees** on a **near constant basis**. Like with the **asphalt paving company**, after **complaints were brought** to management, the **victims were terminated**. In a **Construction Dive** survey conducted **during the pandemic**, **77% of black construction workers** said they were the **victim of a racist behaviors**. Examples included **racist graffiti**, verbal abuse, and **even nooses being placed** on the work site.

Addressing the Issues

In **response to the increasing nature** of these **kinds of charges**, on May 17, 2022, the **EEOC** held a hearing on the subject of **Mistreatment of Women and People of Color in Construction**, and heard from **several expert witnesses** on the challenges faced by **minorities and women** who work in the **traditionally white** and **male-dominated construction industry**.

Janel Bailey, co-executive director of the **Los Angeles Black Workers Center**, said, "It isn't **mysterious** that the **EEOC** called for a **hearing regarding the trades** specifically. The **current situation didn't fall** from the sky. This is the result of **exclusive policies** that have **shaped the cultures** of the industries and their unions. The good news is that we **can choose to move away** from that legacy, and it **must be in partnership** with **Black workers** and other **workers who have been left out**."

From the **testimonies given**, and research done on **proactive solutions**, here is an **non-comprehensive list** of some of the **ways employers** can begin to **address the negative impacts** of racism in the **workplace**:

- **Identify bias** - This can be difficult, but crucial. Examine and note hiring, staffing, supply contracts and other representative decisions. Understand that identifying a bias is present is not some moral failing. It is a structural, systematic failing. It is so ingrained in day-to-day thinking and operation, that it isn't even noticed, which is why it takes real work to undo. It's in the numbers. Think back to the numbers of minority and women workers who are looking for the very work contractors are trying to fill positions in.
- **Develop new company policy to specifically target and overcome bias** - These policies can look like inclusive plans that target a specific amount of persons of color or women to be hired, as well as how many are being promoted internally to higher level positions. Are minorities and women being included in safety meetings or company decision making at any level? A workplace cannot be made safer or more inclusive for these employees if all the problem solving without them. Ask questions and hear what employees have to say. Lastly, there should be public and company wide discussion about the expectations for work environment going forward, and what the consequences will be for not respecting the personal dignity and safety of all employees.
- **Assess diversity inventory** - This is really a subset of the previous point. When creating new company or workplace policies, a vital part of that process is to take an actual survey of the demographics of workforce and management teams. That, in and of itself, can reveal a lot of information. It tells a story of its own. Any adjustments made are a good and valuable step in the right direction.
- **Eliminate racial pay/wage gaps** - It cannot be understated how important it is to pay staff fairly and equitably. Advocating the importance of this is crucial. Evaluate whether employees doing the same job, at the same seniority level, are being paid equally. According to a 2022 study by **Compass**, African American men make \$.76 per dollar of their white counterparts, and Hispanic men \$.75 per dollar. It's even worse for Black and Hispanic women, who earn \$.57 and \$.50 respectively.
- **Inquire up/down the chain** - This requires some real work to investigate, and takes time to bring about substantive change. It can mean researching minority owned suppliers, contractors, and other business partners who may have been overlooked in the past. This plays a big part in how an industry can change, region by region, decision by decision.

How To File A Complaint

For **minority and women employees** it is possible that you **might find yourself** in the position where **every other effort** has failed, and the only **course of action left** is to **file a complaint** with the **EEOC**. Discrimination **doesn't just effect laborers**, it effects management and **executive employees** too. So, it is important to **know what your rights are** and how to **exercise them to protect** yourself and/or others, because, as this **article posits**, it is at **its core a safety issue**.

Those of you **who have worked on the production line** or on a **construction site** know exactly why these **issues are safety related**. If co-workers, **managers** and supervisors are **willing to dehumanize someone** with the **way they talk**, then it is **understandably difficult** to feel safe when **working in and around dangerous** equipment or **situations with those** same individuals.

The **EEOC Chair**, Charlotte A. Burrows said that, "**Discrimination and harassment in construction** can be **especially harsh and virulent**, including **displays of nooses**; threats and physical harassment; and **sometimes physical or sexual assaults**. Yet, often **workers do not** know where to go to **seek help**." In light of those comments, **here are the steps** that employees can **take to seek justice** if they've been wronged.

- 1. The Timeline** - There are time limits of 180 days from the time of the incident within which a charge must be filed. Under certain circumstances, the limit may be extended to 300 days if you are in an area where there is a state fair employment practices agency. Timeliness is an important factor.
- 2. Determine Jurisdiction** - This isn't a requirement, but it can help with the speed of intake for the charges and the follow-up. You can find your nearest field office and their contact information at this [site](#). Many states and local jurisdictions have their own anti-discrimination laws, and agencies responsible for enforcing laws ([Fair Employment Practices Agencies](#), or FEPAs). If you file a charge with a **FEPA**, it will automatically be "dual-filed" with **EEOC** if federal laws apply. You do not need to file with both agencies.
- 3. What you need or don't need** - It doesn't cost anything to file the charges with the **EEOC** You don't need to have an attorney. However, here are some things you need:
 - **The name, address, and telephone number of the company, employment agency, or union that the charge is filed against, and the number of employees (or union members), if known.**
 - **A short description of the event(s) with supporting documentation (if any) which caused you to believe that your rights were violated.**
 - **The date(s) the event(s) took place.**
 - **The names, addresses, and telephone numbers of any witnesses.**
 - **Whether you've filed the same or similar charges with a state or local fair employment practice agency.**
 - **A secondary contact who always knows where to reach you.**
- 4. Submit an inquiry online and schedule an intake interview** - You can't begin the process by using this **EEOC public portal**. You must take this first step before any future legal action can be taken by the **EEOC**. If you don't have access to a personal computer or other device, you can call 1-800-669-4000 where **EEOC** staff will obtain some information from you and try to decide whether your situation is covered by the law.

If you or someone you know has been the victim of workplace harassment and/or discrimination, talk to them about their rights, and what they can do about it. You might be the factor that makes a difference, not only in their life, but in the future of others as well.

The legal process and much more information about what the law's protections are can be found at the **EEOC homepage**: www.eeoc.gov.

Navigating the landscape of COVID-19 and its continuing variants has seemingly become less confusing. Hopefully this will be the path for the future. So that you can access the most updated information, we'll continue to provide links for your convenience.

Here are Resources containing the most current information and guidance for your workplace.

- [CDC – Centers for Disease Control](#) – Important info: [COVID-19 vaccine & boosters](#)
(This season seems to have brought a couple of other viruses that are causing some issues. Visit the [CDC site](#) for latest information and recommendations for the Flu and RSV.)
- [CDPHE – Colorado Department of Public Health and Environment](#)
- [WHO - World Health Organization](#)
- [OSHA Guidance](#)
- [DOL Resources](#)
- [Covid19.colorado.gov](#)

COVID-19 Resource - Filing Whistleblower Complaints Related to COVID-19

OSHA's [new fact sheet](#) explains how workers can protect their right to raise workplace health and safety concerns relating to COVID-19 without fear of retaliation.

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

OSHA's Recordkeeping Requirements During the COVID-19 Pandemic

OSHA issued 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](#).

