



Important Message to our fellow Business Owners, Clients and Communities

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

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

Our physical office remains open to continue to serve our clients during this evolving situation. Social distancing protocols, class size limitations, and pre-entry screening have become a part of our daily lives.

Due to heightened health and safety measures recommended by the CDC and implemented by state and local health departments, we have enacted the following:

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

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

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

Here are some of the many helpful Resource links:

- [CDC – Centers for Disease Control](#) – Important info re: *2020-2021 Flu Shots & the COVID-19 vaccine*
- [CDPHE – Colorado Department of Public Health and Environment](#)
- [WHO - World Health Organization](#)
- [Water and COVID-19 Frequently Asked Questions](#)
- [OSHA Guidance on Preparing Workplaces for COVID-19](#)
- [OSHA Alert — Prevent Worker Exposure to Coronavirus \(COVID-19\)](#)
- [DOL Resources to help Workers and Employers Prepare for the COVID-19 virus](#)
- [Colorado Works — Temporary Assistance for Needy Families \(TANF\) program](#)
- [Colorado PEAK - Medical, Food, Cash, and Early Childhood Assistance programs](#)
- [Covid19.colorado.gov](https://covid19.colorado.gov)



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.

→ The **Colorado Department of Revenue – Division of Motor Vehicles** [posted updated restrictions](#) for their locations, listed by county and effective dates.

In this issue – FEB 2021

▶ **MJS SAFETY TRAINING ANNOUNCEMENT**

MJS SAFETY LLC is proud to continue offering Operator Qualifications through a variety of programs such as NCCER and O.Q.S.G. to our OQ Services.

MJS SAFETY LLC is an "Authorized Assessment Center" for Proctoring Final Assessments and completing Performance Evaluations for O.Q.S.G. and NCCER – as well as other OQ disciplines such as MEA-EnergyU, Veriforce & EnergyWorldNet. [read more...](#)

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

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

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

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...](#)

▶ **U.S. Department of Labor's OSHA Announces \$3,849,222 in Coronavirus Violations**

Since the start of the coronavirus pandemic through Dec. 24, 2020, the U.S. Department of Labor's **Occupational Safety and Health Administration (OSHA)** has issued citations arising from 295 inspections... [read more...](#)

▶ **COVID-19 Prevention in 2021 Will Drive Better Safety Practices Overall**

"*It was the best of times, it was the worst of times.*" Charles Dickens wrote those words more than 160 years ago, but they ring true today as we seek to protect workers in the wake of the pandemic. [read more...](#)

▶ **Emergency Rules Require Public Health Emergency Leave for ALL Employees on January 1**

On December 23, 2020, the **Division of Labor Standards and Statistics** in the **Colorado Department of Labor and Employment (CDLE)** adopted temporary or emergency rules concerning the **Healthy Families and Workplaces Act (HFWA)**... [read more...](#)

▶ **OSHA ADVISORY — President Biden's Early Moves At OSHA**

On the **first day** of his administration, **President Joe Biden** named James Frederick as **deputy assistant secretary** at **OSHA**. [read more...](#)



TRANSPORTATION NEWS SUMMARY

▶ **FMCSA Proposes New Split Sleeper Pilot Program**

FMCSA proposes pilot program to study safety effects of 6/4, 5/5 sleeper berth splits [read more...](#)

▶ **FMCSA's Pre-Employment Screening Program**

The **Federal Motor Carrier Safety Administration** created the Pre-Employment Screening Program (PSP) to help motor carriers by providing drivers' crash and inspection histories online. [read more...](#)

▶ **Court Upholds FMCSA Exemption of Trucking from California Rest Break Rules**

The 9th U.S. Circuit **Court of Appeals** has upheld the **Federal Motor Carrier Safety Administration's** 2018 determination that interstate motor carriers are exempt from California's **stringent** meal-and-rest-break rules... [read more...](#)



▶ **DOT and Truck Fines - Curious How Big They Can Be ?**

The **Commercial Vehicle Safety Alliance (CVSA)** is an organization of over 100 regulatory, law enforcement and government agencies that inspect trucks and commercial equipment for road violations. [read more...](#)



▶ **U.S Department of Transportation Issues Final Rule to Streamline Process for Aspiring Truck and Bus Drivers**

The U.S. Department of Transportation's **Federal Motor Carrier Safety Administration** announced on Dec. 17th a final rule to streamline the process for men and women interested in entering the trucking workforce. [read more...](#)

MSHA NEWS SUMMARY

▶ **MSHA adjusts Civil Monetary Penalties for Inflation**

On Jan. 14, 2021, the U.S. Department of Labor published a final rule in the **Federal Register** that adjusts the Mine Safety and Health Administration's civil monetary penalties for inflation. Penalties will increase by 1.01182% for 2021. [read more...](#)



Training Videos

MSHA has a library of training videos on safety topics ranging from conveyor safety to fall protection. [read more...](#)

▶ **MSHA Reports 29 Mine-Related Deaths in 2020**

In 2020, the U.S. Department of Labor's **Mine Safety and Health Administration** reported there were 29 mining fatalities, making it the sixth consecutive year that mining fatalities were below 30. [read more...](#)

MONTHLY SAFETY & HEALTH TIP NEWS SUMMARY

▶ **Mental Health and Coping during the Coronavirus (COVID-19) Pandemic**

Everyone reacts differently to stressful situations such as an infectious disease outbreak. It is normal to experience a wide range of emotions. [read more...](#)

MJS SAFETY LLC is proud to offer NCCER, OQSG, Energy Worldnet, MEA EnergyU, and Veriforce Operator Qualifications.

MJS SAFETY LLC is an "Authorized Assessment Center" for Proctoring and Testing for ENERGY worldnet, Inc., as well as OQ Performance Evaluation Services.

MJS SAFETY LLC continues to offer Proctor and Testing Services, as well as Operator Qualification [OQ] Performance Evaluations under the "EnergyU" system – a service of Midwest ENERGY Association – as well as Veriforce.

MJS SAFETY LLC has "Authorized" Performance Evaluators on staff that can perform this service for specific "Covered Tasks."

MJS SAFETY LLC is also available to assist with the Knowledge Based Training for these tasks. Knowledge-based training is designed to help personnel successfully pass the OQ Knowledge Based Testing as well as the Performance Evaluation process.

The Operator Qualification Rule – commonly referred to as the "OQ Rule" addressed in Title 49 of the Code of Federal [US DOT] regulations, mandates that individuals who perform "Covered Tasks" on covered pipeline facilities be qualified through the Operator Qualification Process.

The intent of the OQ rule is to ensure protection of both pipeline personnel and the public at large. Providing individuals with the necessary knowledge and skills is an essential element of any Operator and Contractor OQ plan.

Acceptable requirements for qualification are determined by the operator. The quality and validity of data related to OQ training, testing, and performance is critical to meet these requirements.

If we can be of assistance with these types of services for your company, please [call to schedule](#).

MJS Safety OFFERS DRUG & ALCOHOL TESTING to comply with DOT/FMCSA, PHMSA & Non-DOT requirements.

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

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

“Training Spotlight”

(there will be a different course featured monthly)

NUCA COMPETENT PERSON FOR EXCAVATION & TRENCHING

The National Utility Contractor Association Competent Person for Excavation & Trenching Course covers the requirements for excavation & trenching protection as well as the duties of the competent person. This 1 day course includes classroom training with hands-on exercises for soil analysis and classification, cave-in protective system selection and the duties of the employers DESIGNATED COMPETENT PERSON. This class is available in both English and Spanish.

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

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

SOURCES FOR THIS ISSUE INCLUDE:
 OSHA
 FMCSA
 MSHA
 USDOT
 ISHN
 Overdrive
 ttnews
 Mobile Wrench
 rockproducts.com
 Sherman&Howard
 US Dept of Health & Human Services

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

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

- ***PEC Safeland Basic Orientation: February 1, 9, 19; 8 – 4:30;**
This class is available through video conference instructor led distance learning through 6/30/2021 - only upon request
- ***First Aid/CPR/AED/BLOODBORNE PATHOGENS (We offer MEDIC FIRST AID): February 8, 25; 8 — noon;**
This class available for blended learning (online) with remote or in-person skills assessment
- ***Hydrogen Sulfide Awareness [ANSI Z390 -2017 Course]: February 8, 25; 12:30 – 4:30;**
This class available via Instructor Led video conference

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

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

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

— FEATURED TRAINING PROGRAMS —

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

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

Unable to attend a class?

MJS Safety offers multiple “ONLINE TRAINING COURSES”

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

or you can

Need Help With

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

CALL US!!!

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



OSHA / CONSTRUCTION

COVID-19 Q&A



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



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

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

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

(questions are grouped by topic)

OSHA's Recordkeeping Requirements During the COVID-19 Pandemic

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

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

U.S. Department of Labor's OSHA Announces \$3,849,222 in Coronavirus Violations

Since the start of the coronavirus pandemic through Dec. 24, 2020, the U.S. Department of Labor's **Occupational Safety and Health Administration (OSHA)** has issued citations arising from 295 inspections for violations relating to coronavirus, resulting in proposed penalties totaling \$3,849,222.

OSHA inspections have resulted in the agency citing employers for violations, including failures to:

- Implement a [written respiratory protection program](#);
- Provide a medical evaluation, respirator fit test, training on the proper use of a respirator and personal protective equipment;
- [Report](#) an injury, illness or fatality;
- Record an injury or illness on OSHA [recordkeeping forms](#); and
- Comply with the [General Duty Clause](#) of the Occupational Safety and Health Act of 1970

A full list of what standards were cited for each establishment – and the inspection number – [are available here](#). An OSHA standards database can be found [here](#).

Resources are available on the agency's [COVID-19 webpage](#) to help employers comply with these standards.

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.

COVID-19 Prevention in 2021 Will Drive Better Safety Practices Overall

“It was the best of times, it was the worst of times.” Charles Dickens wrote those words more than **160 years ago**, but they ring **true today** as we seek to **protect workers** in the wake of the **pandemic**. In the same **week** that highly effective **coronavirus vaccines** became available to the **public**, we continued to see **record-breaking infection** rates and deaths from **COVID-19**. We have learned **effective methods** for preventing **transmission** of the virus, but **coronavirus fatigue** has led to **lapses** that are **sickening employees**.

Once **coronavirus vaccinations** become **widely available**, legal experts have **suggested** that companies will **be able** to require them for **most employees** as a condition of **work**. In the meantime, **preventing COVID-19** outbreaks will **continue** to dominate **health and safety priorities** for businesses in **2021**.

The Swiss cheese approach

There are **several forms** of protection that **businesses** can put into **place** if they haven't **done so already**, and when **layered together** they become far more **effective** than the sum of their **individual parts**. Think of it as the **Swiss cheese approach**.

The idea is that, by **layering different types** of **prevention** and **protection**, companies can **exponentially bring risk** in the **workplace down** to a tolerable level. For **example**, four tactics each cut **COVID-19 risk** to some **degree**: *social distancing*, **using masks** and other **personal protective equipment (PPE)**, **increasing workforce training**, and **monitoring employees' self-assessments**. Yet, implementing them together cuts the likelihood of a **COVID-19 outbreak** by a factor of **10,000x**.

Starting sooner

Often **coronavirus prevention** is focused on the **physical worksite** with employees wearing **PPE** and working at **reconfigured**, socially distanced stations. Some **industrial businesses** are taking a cue from **biotechnology** firms and setting up **color-coded work zones** to **minimize** interaction between **different teams**. At many locations, it's also **common** to see concierges or greeters check each **worker's temperature** and ask a brief set of **questions** before allowing that person to enter the **building**.

In 2021, **coronavirus prevention** among companies will start **earlier**—before potentially **infectious employees** come to work. Already, some **forward-thinking** companies are asking **employees** to self-report their **COVID-19 risk** remotely via their **mobile phones**. If they get an **“OK”** response, they can go to the **worksite** and use their **mobile phones** to show greeters they have **approval** to enter. If they get a **warning indicator** of potential **COVID-19 risk**, they have to wait for a **manager** or supervisor to advise them on the **appropriate course** of action to protect the **health** of other **workers**.

This type of **self-assessment** is one of the most **powerful** new tools we have to help **make workplaces** safer for people. Today, **self-reporting** is focused on whether a **worker** has potentially **been exposed** to **COVID-19**. But, these **same self-assessments** could be used, for instance, to **determine** if a worker is **too tired** to operate **heavy machinery** and should be assigned to **another task** for the **day**.

Trusted, timely communications

It is **important** that employees who **self-report** have confidence they won't be **penalized** either with a loss of pay or worse, **getting fired**. We have all seen the **stories** about employees with **COVID-19 symptoms** coming to work and spreading the **virus** because they didn't feel like they **could call in sick**.

For this **reason**, company **policies** and **communications** need to **clearly articulate** that the company's **priority** is ensuring **safe work conditions**.



Of course, the **goal** is to reinforce **best practices** in preventing **coronavirus exposure** in the first place. Here, it is important to **follow the lead** of higher **risk industries** — for instance, **construction**, oil and gas, and other **utilities** — where it is well understood that **long-term exposure** to any **potential risk** leads to **complacency**. Businesses in these **sectors** have seen how regular **“safety talks”** can offset this **complacency** and decrease injuries by **roughly 80%**.

In 2021, **companies** will need to combat **coronavirus fatigue** by **doubling down** on regular **safety training**. The key, whether conducting this **training weekly** or monthly, is to include **new information** to ensure that employees don't **“tune out.”** An example might be **sharing the results** of **new research** by the [Journal of Korean Medical Science](#) published on November 23, 2020. It showed how **one person** became infected with **COVID-19** after being in a **restaurant 20 feet** away from the initial **coronavirus carrier** for just five minutes—all because of the **air flow** from the **air conditioner**.

Regulatory compliance

In addition to **efforts aimed** at prevention, companies **will also need** to continue **addressing** a range of **evolving regulations** from regional and **local governments** aimed at preventing and **reporting COVID-19** outbreaks. If companies **haven't done so** already, they need to automate their **policies** and reporting to comply with a **disparate array** of frequently changing **government mandates**. As we've already seen **over the past few months**, failing to **comply** can lead to **steep fines**, temporary **business closures**, and even **lawsuits**.

Although many efforts in the **next year** will focus on **addressing the pandemic**, the **best practices** applied to this challenge will **also lead** to improvements in **overall policies** and practices for **ensuring workers' safety** in 2021 and **beyond**.

Emergency Rules Require Public Health Emergency Leave for ALL Employees Beginning January 1

Source: [Brooke Colaizzi](#), [Amy Knapp](#), and [Beth Ann Lennon](#) of Sherman & Howard

On December 23, 2020, the **Division of Labor Standards and Statistics** in the **Colorado Department of Labor and Employment (CDLE)** adopted **temporary or emergency rules** concerning the **Healthy Families and Workplaces Act (HFWA)** as it **applies** beginning on **January 1, 2021**.

Specifically, the **rules interpret** the HFWA's requirement that **employers provide** employees with **supplemental paid sick leave** of up to **80 hours** for a **public health emergency** to be **applicable to all** employers, **regardless** of size and **industry**, and **immediately** upon **January 1, 2021** because of the **COVID-19 pandemic**.

Read the full advisory [here](#).

For **questions** about this advisory, please contact a **member** of the **Sherman & Howard Labor & Employment Group**.

President Biden's Early Moves At OSHA

Source: Sherman & Howard



On the **first day** of his administration, **President Joe Biden** named James Frederick as **deputy assistant secretary** at **OSHA**. He will serve as the **acting director** of the agency until a **permanent assistant secretary** is nominated by the **president** and confirmed by the **Senate**, a process that entails some **uncertainty** given the evenly **divided body**. Mr. Frederick spent **25 years** with the United Steelworkers and is **viewed** as a **staunch supporter** of tougher regulations. His **appointment** on the first day of the **administration signals** that workplace **safety and health** is a **top priority** for the new president.

Another move **demonstrating** President Biden's approach to **safety and health** matters is an **executive order** signed requiring **OSHA** to determine whether **temporary emergency standards** should be issued to address the **COVID-19 pandemic**. Fourteen states that run their own **occupational safety and health "state plans"** already have enacted such measures. **Colorado**, which does **not have** its own state plan, and **Arizona**, which does, **do not have** any **COVID-specific OSHA** standards. If **OSHA** determines to **implement such emergency standards** it is impossible to say what **exact form** they will take. However, **employers** can expect that **some requirements**, such as mask **mandates**, employer testing, and **exposure control plans**, may be forthcoming. Any such **standards** must be issued by **March 15, 2021**. The order also directs the federal **Mine Safety and Health Administration (MSHA)** to consider such **standards** as well.

Other requirements of the executive order include:

- A requirement that **OSHA**, within two weeks, issue "revised guidance to employers on workplace safety during the **COVID-19** pandemic." This move comes in response to criticism that **OSHA's** prior guidance on the issue has been unhelpful;
- A requirement that **OSHA** review its **COVID-19** enforcement efforts and "identify any short-, medium- and long-range changes that can be made to better protect workers and ensure equity in enforcement;"
- A requirement that **OSHA** "launch a national program to focus **OSHA** enforcement efforts related to **COVID-19** on violations that put the largest number of workers at serious risk or are contrary to antiretaliation principles." Any such enforcement efforts may target industries with the largest outbreaks, such as healthcare, food manufacturing, and grocery stores;
- A requirement that **OSHA** engage in outreach on the issue of **COVID-19**;
- A requirement that **OSHA** review state plan standards related to **COVID-19** to ensure that they are adequate and consistent with **OSHA** guidance and/or temporary standards.

These **early moves** are just the **beginning**. It can be expected that the **Biden Administration** will continue to **bolster OSHA** standards and **enforcement**. Employers are **encouraged** to stay abreast of these **developments** and implement the **appropriate measures**. We will be issuing **further updates** as **developments** come in.

QUESTIONS

If you have any **questions**, please contact **Pat Miller 303.299.8354**, **Dana Svendsen 303.299.8164**, or **Alyssa Levy 303.299.8256** at **Sherman & Howard**.

FMCSA Proposes New Split Sleeper Pilot Program

FMCSA proposes pilot program to study safety effects of 6/4, 5/5 sleeper berth splits

The **Federal Motor Carrier Safety Administration** announced recently it will propose a new pilot program for truck drivers to evaluate adding a 6/4 and 5/5 sleeper-berth split to the hours of service regulations.

During the proposed pilot program, drivers would have the option to split their 10-hour off-duty sleeper berth time into two periods, provided that the two periods total at least 10 hours. Drivers participating in the proposed pilot would be expected to split their sleeper berth time into two periods so that neither period is less than four hours.

FMCSA says that it received many comments on its hours of service rulemaking that went into effect in September asking for more flexibility for sleeper splits beyond the 7/3- and 8/2-hour splits currently allowed.

In its notice of proposed rulemaking for the recent HOS changes, **FMCSA** says it asked for data on the 6/4 and 5/5 splits, but none was received. This proposed pilot would be used to collect the additional data to determine if the additional splits should be added to the HOS regulations.

“**FMCSA** continues to explore ways to provide flexibility for drivers, while maintaining safety on our roadways,” said **FMCSA** Deputy Administrator Wiley Deck. “This proposed pilot program will provide needed data and feedback for the agency to use now and in the future.”

Gathering more data on split-sleeper flexibility will benefit all CMV stakeholders. We encourage everyone to review this proposal and provide their public comments.”

FMCSA says it would look to include truck drivers from small, medium and large carriers, as well as team drivers and owner-operators, to participate in the pilot. The agency hopes to have between 200 and 400 drivers participate. The program would collect driver identification details and data on sleep, safety-critical events, subjective sleepiness ratings and behavioral alertness throughout driver participation in the study, **FMCSA** adds.

The proposed criteria for drivers to participate includes among other things being employed by an approved carrier or certified as an owner-operator. Participants would also agree to study procedures, including the use of video-based on-board monitoring systems and the use of actigraphs, which are worn like a watch to measure activity through light and movement to quantify and access sleep/wake patterns of the driver.

FMCSA proposal will be published in the Federal Register in the coming days, at which point the public will be invited to comment on the proposal for 60 days. *Overdrive* will publish a link to the comment period when the proposal is published.

FMCSA's Pre-Employment Screening Program

The **Federal Motor Carrier Safety Administration** (**FMCSA**) created the **Pre-Employment Screening Program** (**PSP**) to help motor carriers by providing drivers' crash and inspection histories online. **PSP** helps motor carriers make more-informed hiring decisions.

Enroll

PSP Impact

Motor carriers using PSP had:



The **FMCSA** conducted a **PSP** safety impact analysis comparing the motor carriers that use **PSP** to all other motor carriers. Results showed that, on average, motor carriers using **PSP** lowered their crash occurrences by 8% and their out-of-service rates by 17%.

PSP helps motor carriers hire safer drivers. With **PSP**, you can:

- view a driver's 5-year crash history ([view a sample record](#));
- view a driver's 3-year inspection and violation history;
- identify potentially unsafe drivers;
- defend against negligent hiring litigation; and
- make roads safer.

[Watch a short video about PSP](#)

[review the FAQs](#)

READY TO GET STARTED?

► **MJS Safety** is here to help! Give us a call or email carriejordan@mjsafety.com ◀

Court Upholds FMCSA Exemption of Trucking from California Rest Break Rules



The 9th U.S. Circuit Court of Appeals has upheld the **Federal Motor Carrier Safety Administration's** 2018 determination that **interstate motor carriers** are exempt from California's **stringent** meal-and-rest-break rules, a **decision** that supporters say will **avoid** a future **state-by-state** patchwork of **rest break rules**.

"The **FMCSA** reached this **conclusion** because California **required more breaks**, more often and with **less flexibility** as to timing," the court's **three-judge panel** said in its **Jan. 15 opinion**.

The California law **requires employers** to provide a **"duty-free"** 30-minute **meal break** for employees who work **more than five hours** a day, as well as a second **duty-free**, 30-minute **meal break** for those who work **more than 10 hours a day**, and additional **10-minute** rest periods every **four hours**. An employer's **failure to provide the required breaks** is a misdemeanor under **California law**.

By contrast, **federal law states** that except for certain **shorthaul drivers**, a property-carrying commercial **motor vehicle driver** working more than **eight hours** must take at least **one 30-minute** break during the **first eight hours**, although the driver has **flexibility** as to when the **break occurs**.

"The court's ruling is a **victory** for common sense **over bureaucracy** and the **plaintiff's bar**," **American Trucking Associations** President Chris Spear said in a statement. "When the **Department of Transportation** pre-empted **California's rules**, it was a victory for **highway safety**, ensuring that there is **one uniform standard** for trucking regulations. By **upholding DOT's authority** to be the **sole regulator** of **interstate trucking**, the 9th Circuit is **preventing states** and trial lawyers from **creating a costly** and inefficient patchwork of **competing rules**."

The **appeals court's** unanimous ruling held that **not only** does the federal government have the **authority** to review and **pre-empt state** safety rules, but the **panel agreed** with **DOT's conclusion** that "federal regulations **adequately** and more **appropriately balanced** the competing interests between **safety** and **economic burden**" than allowing states to impose a **patchwork** of competing regulations, ATA said.

"We hope this **ruling sends** a strong message to **other states** that they are **not allowed** to impose additional **regulatory burdens** on interstate commerce," Spear said. "We thank **DOT** and the court for **upholding** the principle that **federal regulatory primacy** is critical for **maintaining safe** and **efficient transportation**."

Said Richard Pianka, **ATA** deputy general counsel: "**This is a huge victory** for the industry. It **reaffirms** that these **factitious wage** and **hour claims** that the industry has been seeing, **particularly** out in California, are **meritless**."

The **ruling applies** to drivers who are **subject** to federal **hours-of-service** regulations, those drivers who are **moving interstate** freight, Pianka added.

In its **opinion**, the appellate panel **rejected challenges** by the **Teamsters union** to the **determination**, holding that **FMCSA** did not act "**arbitrarily or capriciously**" in finding that enforcement of the **meal-and-rest-break** rules "would cause an **unreasonable burden** on interstate commerce."

The court also **pointed to comments** submitted by carriers **demonstrating** the impact of the **meal-and-rest-break** rules on their **operations** as amply justifying **FMCSA's** conclusion that the **rules unreasonably** burden interstate **commerce**, said a "**law alert**" posted by the **law firm** of Scopelitis, Garvin, Light, Hanson & Feary, P.C.

"The **crux** of the **petitioners' arguments** was that **FMCSA** had previously **determined** the **meal-and-rest-break** rules were **not laws** on commercial **motor vehicle safety** and that **FMCSA** lacked authority to consider **laws** that were not **directed specifically** to **commercial motor vehicle safety** under the pre-emption **scheme**," the Scopelitis alert said.

The **panel noted** that the **challengers** argued that California **law** has some **flexibility** in its design. For **example**, employees may agree to **waive certain** meal **breaks** and that **employers** can also seek **exemptions** from the rest **break requirements** from the **California Labor Commissioner's Office**. But in its **opinion**, the court said that **compared** to federal safety **regulations**, California's **meal-and-rest-break** rules generally **require** that employers allow **commercial truck drivers** to take **more rest breaks** "at greater **frequency**, and with **less flexibility** as to when **breaks occur**."

Besides the **Teamsters**, the **challengers included** the **California Labor Commissioner's Office** and several individual **drivers**.

The **appellate panel** concluded that **FMCSA** permissibly **determined** that California's **meal-and-rest-break** rules were **state regulations** "on commercial **motor vehicle safety**, so that they were within the agency's **pre-emption authority**."

"**In this case**, the **FMCSA** determined that **federal law** pre-empts California's **meal-and-rest-break** rules, as applied to **drivers** of property **carrying commercial** motor vehicles who are **subject** to the **FMCSA's** own **rest break regulations**," the panel said.

DOT and Truck Fines - Curious How Big They Can Be?

The **Commercial Vehicle Safety Alliance (CVSA)** is an organization of over **100 regulatory, law enforcement and government agencies** that inspect **trucks and commercial equipment** for road violations. The chart shows the values for some of the fines for violations they discover.



CVSA Violations / Fines	Average	Top
Failure to perform DOT inspection on unit	\$2,821	\$21,780
Failure to keep vehicle in safe operating condition	\$3,032	\$11,880
Operating despite mech. issue that can cause breakdown	\$1,519	\$13,530
Operating out of service vehicle	\$2,330	\$26,126
Carrier fails to keep driver's qualification file	\$1,236	\$2,130
Carrier fails to keep insp and maint records for each vehicle	\$1,861	\$3,400
Driver file missing copy of medical certificate	\$1,577	\$2,670
Driver operates unit under age 21 for interstate commerce	\$1,201	\$3,190
Driver operating vehicle is medically unqualified	\$3,160	\$11,220
Driver operates without proper authority	\$1,799	\$25,000
Driver operating without drivers license	\$1,413	\$3,580
Driver operating without medical card	\$2,800	\$11,500
Conducting operations during suspension or revocation		\$12,383
Falsification of records		\$23,426

REMEMBER, in addition to the fines, trucks can be taken off the road and not operated until the violations are corrected. The lost revenue of unscheduled down time can be additional thousands of dollars. To avoid fines, keep your trucks and trailer in safe operating condition and be sure your drivers have the right documentation.

U.S Department of Transportation Issues Final Rule to Streamline Process for Aspiring Truck and Bus Drivers

The U.S. Department of Transportation's **Federal Motor Carrier Safety Administration (FMCSA)** announced on Dec. 17th a final rule to streamline the process for men and women interested in entering the trucking workforce. The new rule will allow states to permit a third-party skills test examiner to administer the **Commercial Driver's License (CDL)** skills test to applicants to whom the examiner has also provided skills training.

"During the **COVID-19 public health** emergency truckers have been **American heroes**—and the Department is committed to helping our economy by reducing unnecessary barriers for those interested in obtaining jobs in the trucking industry," said U.S. Secretary of Transportation Elaine L. Chao.

Federal rules previously prohibited a third-party **CDL skills instructor** who is also authorized by the state to administer the **CDL skills test** from performing both the instruction and the qualifying testing for the same **CDL applicant**. The final rule announced recently eliminates that restriction and permits states, at their discretion, to allow qualified third-party skills trainers to also conduct the skills testing for the same individual. This new rule is designed to alleviate testing delays and eliminate needless inconvenience and expense to the **CDL applicant**—without compromising safety.

This new rule will provide states more flexibility during the ongoing public health emergency to test **CDL applicants** and allow more drivers to safely enter the industry," said **FMCSA** Deputy Administrator Wiley Deck.

FMCSA has been focused on reducing regulatory barriers for **CDL applicants**. In March 2019, the agency authored a final rule streamlining the process and reducing costs to upgrade from a **Class B to Class A CDL**— a deregulatory action that will save eligible driver trainees and motor carriers **\$18 million annually**.

The rule change is effective 60 days from publication in the **Federal Register**.

MSHA Adjusts Civil Monetary Penalties for Inflation

On Jan. 14, 2021, the U.S. Department of Labor published a final rule in the *Federal Register* that adjusts the Mine Safety and Health Administration's civil monetary penalties for inflation. Penalties will increase by 1.01182% for 2021.



Description	CFR Citation	Minimum Penalty	Maximum Penalty
Regular Assessment	30 CFR 100.3(a)		\$74,775
Penalty Conversion Table	30 CFR 100.3(g)	\$139	\$74,775
Minimum Penalty for any order issued under 104(d)(1) of the Mine Act	30 CFR 100.4(a)	\$2,493	
Minimum penalty for any order issued under 104(d)(2) of the Mine Act	30 CFR 100.4(b)	\$4,983	
Penalty for failure to provide timely notification under 103(j) of the Mine Act	39 CFR 100.4(c)	\$6,232	\$74,775
Any operator who fails to correct a violation for which a citation or order was issued under 104(a) of the Mine Act	30 CFR 100.5(c)		\$8,101
Violation of mandatory safety standards related to smoking standards	30 CFR 100.5(d)		\$342
Flagrant violations under 110(b)(2) of the Mine Act	30 CFR 100.5(e)		\$274,175

Training Videos

MSHA has a library of training videos on safety topics ranging from conveyor safety to fall protection.

Miners and mine operators can find [safety and health information](#) on [MSHA.gov](#).

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 requires the Department to update civil monetary penalties for inflation each year.

MSHA Reports 29 Mine-Related Deaths in 2020

In 2020, the U.S. Department of Labor's [Mine Safety and Health Administration \(MSHA\)](#) reported there were **29 mining fatalities**, making it the **sixth consecutive year** that mining fatalities were **below 30**. Among those fatalities, **five occurred in coal mines**, a historic low.

MSHA reports that **three deaths** occurred in Kentucky and Louisiana; **two each in Arizona, California, Georgia, Iowa, Texas and West Virginia**; and **one each in Colorado, Illinois, Kansas, Michigan, Missouri, Nevada, New Jersey, Ohio, Pennsylvania, South Carolina and Washington**.

After a **two-year increase** in 2017 and 2018 when about half of all deaths resulted from **powered haulage accidents**, such as vehicle-on-vehicle collisions, failure to use a functioning seat belt, and **conveyor belt accidents**, **MSHA** responded with a multifaceted education campaign and **initiated rulemaking**. By 2020, powered haulage deaths **dropped to 21%**. 2020 also marked the first year in **MSHA's history** with no seatbelt-related deaths, and **conveyor-related deaths** dropped from four in 2017 to **one in 2020**.

"In 2020 **MSHA** focused on improving safety in several areas, including **falls from height** and truck-loading operations," said Assistant Secretary for **Mine Safety and Health** David G. Zatezalo. "We also focused on **chronic problem areas**, such as disproportionate accidents among contractors and **inexperienced miners**. In 2019, contractor deaths accounted for **41% of deaths** at mines. In 2020, they **were 28%**."

As required, **MSHA** inspected all underground mines at least **four times per year** and surface mines at least **twice per year** in 2020, in a year when **15% of inspectors** self-identified as high-risk for the **coronavirus** under CDC guidelines. Between **March 1, 2020** and Dec. 31, 2020, **MSHA** issued 195 citations for **sanitary conditions** that could have contributed to **coronavirus**.

The mining industry achieved its **highest compliance** with **MSHA's** health standards, which protect the **long-term health** of miners. The year saw **all-time-low average** concentrations of respirable dust and respirable quartz in **underground coal mines**, as well as exposure to **dust and quartz** for miners at **highest risk** of overexposure to **respirable dust**.

Approximately **230,000 miners** work across **11,500 metal/nonmetal mines** in the U.S., while **64,000 work** in the nation's **1,000 coal mines**.

Mental Health and Coping during the Coronavirus (COVID-19) Pandemic

Everyone reacts differently to stressful situations such as an infectious disease outbreak. It is normal to experience a wide range of emotions.

This page lists resources and tools to help you or someone you know deal with stress, cope with grief, speak to children about COVID-19, and support older adults or veterans stay healthy during the pandemic. Many of these resources are available in multiple languages.

Are You Feeling a Mix of Emotions during Coronavirus?

Stress during an infectious disease outbreak can include:

- *Fear and worry about your own health and the health of your loved ones*
- *Changes in sleep or eating patterns*
- *Difficulty sleeping or concentrating*
- *Worsening of chronic health problems*
- *Worsening of mental health conditions*
- *Increased use of alcohol, tobacco, or other drugs*

[Watch the video](#)

Talk to Someone Now: [Free and Confidential Support Resources](#)

There are resources available to you 24 hours a day, 7 days a week, if you need someone to talk to during this difficult time.

Tips and Advice for Coping during Coronavirus: [Tips and Advice for Coping](#) (details)



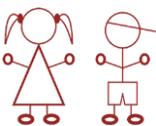
Coping with Stress during the COVID-19 Pandemic

Social distancing, quarantine, and isolation can be overwhelming and cause strong emotions in adults and children. Finding ways to cope with stress in a healthy way will make you, the people you care about, and your community stronger.



Grieving during the Coronavirus (COVID-19) Pandemic

People grieve and accept loss in different ways. Remember that mourning takes time and can present itself in many different emotions.



Talking to Children about Coronavirus

Parents, caregivers, and other trusted adults play an important role in helping children make sense of what they hear in a way that is honest, accurate, and minimizes anxiety or fear.



Helping Older Adults Stay Healthy at Home

Many older adults are feeling isolated in their homes, which can affect their health and well-being. Stay connected from your home by video chatting and calling friends and family.



Supporting Veterans through the COVID-19 Pandemic

Service members, veterans, and their family members may experience stress differently. There are practical steps you can take to manage anxiety and improve your wellbeing.