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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DOL Announces Annual Adjustments to OSHA Civil Penalties for 2023

The **U.S. Department of Labor** announced changes to **Occupational Safety and Health Administration** civil penalty amounts based on cost-of-living adjustments for 2023.

In 2015, Congress passed the Federal Civil Penalties Inflation Adjustment Act Improvements Act to advance the effectiveness of civil monetary penalties and to maintain their deterrent effect. Under the Act, agencies are required to publish "catch-up" rules that adjust the level of civil monetary penalties and make subsequent annual adjustments for inflation no later than January 15 of each year. This year, January 15 falls on a Sunday and January 16 is a federal holiday. Therefore, new OSHA penalty amounts became effective Jan. 17, 2023.

OSHA's maximum penalties for serious and other-than-serious violations will increase from $14,502 per violation to $15,625 per violation. The maximum penalty for willful or repeated violations will increase from $145,027 per violation to $156,259 per violation.

- Visit the OSHA Penalties page and read the final rule for more information.
- Inspections, Citations, and Proposed Penalties Standard Number: 1903.15
- Enforcement Memo

OSHA/CONSTRUCTION NEWS SUMMARY

► **DOL Announces Annual Adjustments to OSHA Civil Penalties for 2023**

The **U.S. Department of Labor** announced changes to **Occupational Safety and Health Administration** civil penalty amounts based on cost-of-living adjustments for 2023. read more…

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Seeks to hold employers to greater account for safety, health failures read more…

► **10 Reminders Following OSHA's Top Safety Violations**

..the list serves as a reminder that risks and violations continue to challenge businesses… read more…

► **Did You Know?**

…the OSHA website is now available in 16 languages.   read more…

► **The Future of Digital Safety Reports**

Coffee-stained, crumpled safety reports written in illegible handwriting can be found on jobsites across the country.   read more…

► **How Jobsite Data Becomes Legal Evidence**

Here's an **increasingly familiar scenario** that has – **or is likely to happen** – to many **General Contractors.** read more…

► **Addressing the Challenges of Making PPE for Women**

OSHA notes significant progress over the past several years in the availability of PPE for women…   read more…

► **5 Steps to a Safer Construction Jobsite**

Anytime is a great time to hold a quick refresher session with your team.   read more…

► **Ten Safety Tips for Operating Mobile Elevating Work Platforms on the Jobsite**

Providing safe, productive Mobile Elevating Work Platforms (MEWP) should be a priority. 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…

► **Don't be Dishonest with Insurers to Lower Premiums**

The consequences of dishonesty when it comes to the information provided for an insurance policy can be devastating.   read more…

► **Trucking Researchers Launch Survey On Marijuana Legalization Impact**

The **American Transportation Research Institute** recently said it has **launched a survey** seeking **motor carrier input** on the impact of **marijuana legalization** on the **trucking industry's** workforce. read more…

► **CVSA Upcoming Program Dates**

International Roadcheck - **May 16-18, 2023** - Operation Safe Driver Week **- July 9-15, 2023**
Operation Airbrake Program **- Brake Safety Week - Aug. 20-26, 2023 - also be an unannounced one-day brake safety enforcement initiative, which may be held at any time.** read more…

► **Why FMCSA Keeps Revoking Elds, and How to Tell if Yours is Next**

The **FMCSA** recently revoked **three ELD's in a two-week** span. read more…

► **FMCSA Proposes Long-Overdue CSA Carrier Safety Measurement System Revamp**

FMCSA has **launched** a preview site that **allows carriers** to **log in and see their carrier profile** with the **proposed SMS changes.** read more…

MSHA NEWS SUMMARY

► **The Mine Safety and Health Administration is now on FACEBOOK!** read more…

► **3 Miners Electrocuted in 10 Days**

So far **2023 has been a deadly year** for America's miners, with **seven fatalities** in the **first six weeks.** read more…

► **Highwall - Safety Alert**

Since CY 2012, falling rocks and materials from hazardous highwalls have resulted in 9 mining fatalities and 27 serious injuries. read more…

MONTHLY SAFETY & HEALTH TIP NEWS SUMMARY

► **ANSI Z358.1-2014 – Emergency Eyewash & Shower Standard**

…the timely use of emergency showers and eyewash stations can help prevent injuries or reduce the severity of injuries. 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 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 <u>DESIGNATED COMPETENT PERSON</u>.

For all of our Course Offerings visit the MJS Legacy Safety website

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

- *PEC Safeland Basic Orientation: **NEW 2021 SAFELAND:** Mar 10, 20; 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): Mar 2, 24; 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*]: Mar 2, 24; 12:30 – 4:30;
  This class available via Instructor Led video conference

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?

Order
First Aid
& other
Safety Supplies
www.mjssafety.com
Jeremy
720-203-6325
Carrie
720-203-4948

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

Need Help With
■ ISNetworld
■ PEC/Veriforce
■ NCMS
■ Avetta/BROWZ
■ TPS ALERT

CALL US!!!

➜ 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.*

► **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!

Report a Fatality or Severe Injury

- *All employers are required to notify **OSHA** when an employee is killed on the job or suffers a work-related hospitalization, amputation, or loss of an eye.*
- *A fatality must be reported within 8 hours.*
- *An in-patient hospitalization, amputation, or eye loss must be reported within 24 hours.*

To Make a Report
- Call the nearest OSHA office.
- Call the OSHA 24-hour hotline at 1-800-321-6742 (*OSHA*).
- Report online

Be prepared to supply: Business name; names of employees affected; location and time of the incident, brief description of the incident; contact person and phone number. FAQ's

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 **Must Submit Required Injury And Illness Data** for each calendar year by **March 2** of the following year using **Form 300A.**

Employers must post their 2022 Summary of Work-Related Injuries and Illnesses (*Form 300A*) from February 1 through April 30.

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.

Site-Specific Targeting

OSHA issued a new directive (*pdf*) **on targeting specific worksites with the highest rates of injuries and illnesses for safety and health inspections.**

Executive Summary

This Instruction updates **OSHA's** Site-Specific Targeting (*SST*) inspection program, which uses employer-submitted Form 300A data for calendar years (*CY*) **2019, 2020 and 2021.**

The SST plan is **OSHA's** main site-specific programmed inspection initiative for non-construction workplaces that have **20 or more employees.** The SST program uses objective data from injury and illness information that employers submit pursuant to **29 CFR § 1904.41.**

This program helps **OSHA** achieve the goal of ensuring that employers provide safe and healthful workplaces by directing enforcement resources to those workplaces with the **highest rates of injuries and illnesses.**

This Instruction identifies key references, describes the inspection target list, provides scheduling and inspection procedures, and information on **OSHA** Information System (*OIS*) coding.

Significant Changes

Based on **OSHA's** past enforcement experience, the following changes have been incorporated into this current SST plan:

- *For high-rate establishments, the SST plan selects individual establishments for inspection based on CY 2021 Form 300A data. The previous SST used CY 2019 data.*

- *For upward trending establishments, the SST plan selects individual establishments for inspection based on CY 2019 through 2021 Form 300A data. The previous SST used CY 2017 through 2019 data.*

- *The low-rate establishments list is generated using CY 2021 Form 300A data. The previous SST used CY 2019 data.*

- *The non-responders list is generated using CY 2021 data, when compared to CY 2019 data used for the previous SST.*

Did You Know?

Given the enormous success of **OSHA's** Voluntary Protection Programs and their potential to save lives and prevent injury and illness, the agency is inviting the public to share their comments on how to modernize, enhance, and expand the programs. Comments must be submitted by April 14.

¿Sabías?

Dado el enorme éxito de los Programas Voluntarios de Protección de **OSHA** y su potencial para salvar vidas y prevenir lesiones y enfermedades, la agencia invita al público a compartir sus comentarios sobre cómo modernizar, mejorar y ampliar los programas. Los comentarios deben enviarse antes del 14 de abril.

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!

Whistleblower Protection

OSHA is accepting public comments on its interim final rule for the Criminal Antitrust Anti-Retaliation Act.

SUMMARY:

This document provides the interim final text of regulations governing the anti-retaliation (*whistleblower protection*) provision of the **Criminal Antitrust Anti-Retaliation Act** (*CAARA or the Act*). This rule establishes procedures and timeframes for the handling of retaliation complaints under **CAARA,** including procedures and timeframes for complaints to the **Occupational Safety and Health Administration** (*OSHA*), investigations by **OSHA**, appeals of **OSHA** determinations to an **Administrative Law Judge** (*ALJ*) for a hearing de novo, hearings by ALJs, review of ALJ decisions by the **Administrative Review Board** (*ARB*) (*acting on behalf of the Secretary of Labor*), and judicial review of the Secretary's decisions. It also sets forth the Secretary's interpretations of the **CAARA anti-retaliation provision** on certain matters.

DATES:

This **interim final rule is effective** on **February 10, 2023.** Comments and **additional materials** must be submitted (*post-marked, sent or received*) by **April 11, 2023**.

How to File a Whistleblower Complaint

Read FAQ's here

Department Of Labor Announces Enforcement Guidance Changes To Save Lives, Target Employers Who Put Profit Over Safety

Seeks to hold employers to greater account for safety, health failures

The **U.S. Department of Labor** announced that its **Occupational Safety and Health Administration** has issued **new enforcement guidance** to make its **penalties more effective** in stopping employers from **repeatedly exposing workers** to **life-threatening hazards** or failing to comply with **certain workplace safety** and health requirements.

OSHA Regional Administrators and **Area Office Directors** now have the authority to **cite certain types** of violations as "instance-by-instance citations" for cases where the agency identifies **"*high-gravity*" serious violations** of **OSHA standards** specific to certain conditions where the language of the **rule supports a citation** for each instance of **non-compliance.** These conditions **include lockout/tagout,** machine guarding, **permit-required confined space,** respiratory protection, falls, **trenching** and for cases with **other-than-serious violations** specific to **recordkeeping.**

The change is **intended to ensure OSHA personnel** are applying the full authority of the **Occupational Safety and Health Act** where increased citations are **needed to discourage** non-compliance. The new guidance **covers enforcement activity** in general industry, **agriculture,** maritime and **construction industries,** and becomes **effective 60 days** from Jan. 26, 2023. The **current policy** has been in place **since 1990** and applies only to **egregious willful citations.**

In a **second action, OSHA** is reminding its **Regional Administrators** and **Area Directors** of their authority not to group violations, and instead cite them **separately to more effectively** encourage employers to **comply** with the intent of the **OSH Act.**

"Smart, impactful enforcement means using **all the tools available** to us when an **employer 'doesn't get it'** and will respond to only **additional deterrence** in the form of **increased citations** and penalties," explained **Assistant Secretary for Occupational Safety and Health** Doug Parker. "This is i**ntended** to be a **targeted strategy** for those **employers who repeatedly** choose to put **profits** before their **employees' safety,** health and wellbeing. **Employers who callously view** injured or **sickened workers** simply as a **cost of doing** business will face **more serious consequences."**

These changes in **enforcement guidance** are important **enforcement tools** to help **deter employers** from disregarding their responsibilities to **protect workers** and **ensure compliance** with **OSHA standards and regulations.**

Existing guidance on **"instance-by-instance citations"** are outlined in the OSHA Field Operations Manual, and CPL 02-00-080, **"Handling of Cases to be Proposed for Violation-by-Violation Penalties."**

10 Reminders Following OSHA's Top Safety Violations

The Occupational Safety and Health Administration (*OSHA*) recently announced its preliminary list of the 10 most frequently cited safety violations from the 2022 fiscal year.

For most contractors, the list serves as a reminder that risks and violations continue to challenge businesses that don't follow thorough safety practices. But more importantly, it can help you identify and address safety gaps that might exist on your jobsite. For the purpose of this article, included are both construction and general industry standards, however, you can sort violations by industry on OSHA.gov.

Let's take a closer look at each violation on OSHA's list, and the reminders they provide.

1. Fall Protection – General Requirements (1926.501)

Fall protection general requirements topped OSHA's annual violations list for the 12th straight year. Unfortunately, fall protection—or lack thereof—has become more than just a hazard. Falls are one of the leading causes of occupational fatalities, particularly in the construction industry.

Reminder: *Provide personal protective equipment (PPE), along with guardrails, safety nets, or **fall arrest systems** for employees above six feet or more. Train your team on the proper use of fall protection equipment and inspect your systems regularly.*

2. Hazard Communication (1910.1200)

Employees have the right to know about any hazardous materials they may work with and how to handle them. Hazards can range from gases and vapors to fumes, fibers, and mist. And as the second most cited violation on OSHA's list, there's plenty of room for more **hazard communication**.

Reminder: *Inform workers of hazardous chemicals, the risks associated with exposure, and safety measures. Share this information with your employees through written programs, hazard labels and warnings, **safety data sheets** (SDSs), and in-person training.*

3. Respiratory Protection (1910.134)

Like hazard communication, **respiratory protection** standards can help protect workers from harmful substances and air pollutants. Still, many businesses over the past year struggled to obtain proper medical evaluations, provide **fit testing** to their employees, or implement respiratory protection programs.

Reminder: *Equip your employees with the **appropriate respirators** and educate them on proper uses. Create a formal **respiratory protection program** that requires employees to complete medical evaluations, perform fit testing, and participate in respirator training.*

4. Ladders (1926.1053)

Ladders are an invaluable tool on most worksites, but they can present **several hazards** for those using them. The results of improper use can lead to serious injury—and, as seen by OSHA's list—result in penalties.

Reminder: *Inspect your ladders and remove broken or poorly maintained items from service. Evaluate how much weight your ladders can support and train employees on proper usage. Remind your team to avoid standing on the top step (or cap) of ladders.*

5. Scaffolding (1926.451)

As projects progress, scaffolding is often modified or altered to complete tasks. Because of this, it can be easy for teams to overlook the proper fall protection, safe access, and planking requirements necessary to keep workers safe, which is why scaffolding hazards rounded out OSHA's top five most cited violations.

Reminder: *Ensure your scaffolding is safe, sturdy, and able to support its own weight, plus **four times** the total maximum intended load. Review the full **OSHA standard** to ensure your scaffolds align with requirements for weight limitations, planking, and decking. Inspect and remove damaged pieces from service.*

6. Lockout/Tagout (1910.147)

Nearly every contractor relies on energized machinery to keep projects moving forward. Unfortunately, the hazardous energy within machinery can injure or kill workers if it's released during maintenance work. **Lockout/Tagout (LOTO)** procedures can help protect workers, but only if they're implemented properly. If not, businesses may face violations and put their workers at risk.

Reminder: *Identify your machinery's hazardous energy sources and develop machine-specific LOTO procedures. Train your team on how to de-energize equipment and apply LOTO devices.*

7. Powered Industrial Trucks (1910.178)

With so many materials to move around jobsites, many businesses use **forklifts or lift trucks** for transporting items. But such large machinery can add risk if untrained or inexperienced **drivers** get behind the wheel.

Reminder: *Provide classroom and practical training to workers who operate forklifts and other heavy machinery on your worksite. Ensure each operator has the proper certification and re-certification needed to drive.*

8. Fall Protection–Training Requirements (1926.503)

The topic of fall protection made OSHA's list twice—this time for training violations. If you've sensed a theme so far, it's that safety starts with training. Informed, well-trained workers can help manage and reduce risks, particularly in an industry working above ground.

Reminder: *Provide fall protection training to all employees who may work at heights on your jobsite. Conduct a fall hazard assessment to identify areas and responsibilities that expose your team to fall hazards.*

9. Eye and Face Protection (1926.102)

Construction work often involves tasks near flying particles, hazardous chemicals, and other debris—all of which can lead to eye injuries. And although eye injuries are among the most preventable occupational injuries, many businesses received violations for not providing or requiring proper eye protection.

Reminder: *Assess your PPE hazards and provide proper equipment for the eye and face exposures your workers face. Eye protection options include safety glasses, safety goggles, face shields, welding helmets, laser-safe lenses, and prescription glasses or goggles. Provide adequate training to your team and ask supervisors to monitor the use of PPE around hazards.*

10. Machine Guarding (1910.212)

When used correctly, machinery can help expedite tasks and keep project timelines on track. But without caution and safeguards in place, employees who operate or maintain machinery could risk severe injury.

Reminder: *Identify workplace machinery that may cause injury to your workers at the point of operation, from rotating and moving parts or flying chips and sparks. Once you've identified these risks, perform machine-guarding assessments on the equipment and install guards as needed.*

The Takeaway

One quality that stands out among the most successful contractors: those who embrace safety and reduce work-related injuries.

Each of these standards can help you assess and update your existing workplace safety program—but they don't capture every risk or compliance standard that could lead to an injury. For example, trenching and excavation safety is a common risk facing most contractors and a standard that sees some of the most frequent citations within construction. For the most recent guidance, visit OSHA.gov.

You can also talk with your insurer or local expert for safety policies specific to your business. By complying with OSHA standards, you may even lower your overall workers' compensation costs by reducing or preventing workplace accidents over time.

Did You Know?

As part of OSHA's commitment to making information on workplace safety and health accessible to everyone, the OSHA website is now available in 16 languages. Just click on the word "Languages" at the top right of any webpage to select from the translation options.

¿Sabías?

Como parte del compromiso de OSHA de hacer accesible a todas las personas la información sobre seguridad y salud en el lugar de trabajo, el sitio web de OSHA está ahora disponible en 16 idiomas. Sólo tiene que hacer clic en la palabra "Idiomas" en la parte superior derecha de cualquier página web para seleccionar una de las opciones de traducción.

The Future of Digital Safety Reports

Construction is already a dangerous job by nature, but failing to complete and incorporate the findings from safety reports only increases the danger, both physically for workers and financially for companies by increasing liability.

Coffee-stained, crumpled safety reports written in illegible handwriting can be found on jobsites across the country. And if they make the journey back to the office, they are strewn about a manager's desk or stuffed in a filing cabinet, never to be seen again. This process has become so commonplace, many don't stop to ask if there's a better way.

Of course, construction professionals know safety is important. Nevertheless, they often dread safety processes; safety reports are no exception. To many, they're tedious paperwork. However, they fit into the larger picture of risk management planning, which is critical for any construction company.

Safety Report Basics

Safety managers should regularly conduct inspections and file safety reports to ensure compliance and protect workers. At a minimum, they should do these:

- **Directly after a workplace incident.** *In addition to the incident report, this will help companies get to the bottom of what went wrong*

- **At the outset of a new project.** *This will help identify hazards unique to the project*

- **Once a quarter.** *Having a regular rhythm of safety inspections can help mitigate risk and decrease liability.*

Construction is already a dangerous job by nature, but failing to complete and incorporate the findings from safety reports only increases the danger, both physically for workers and financially for companies by increasing liability. Because of this, forward-thinking companies are digitizing their safety report processes. In doing so, they're reducing the time it takes to file reports while increasing the utility of the reports.

Why Digital Safety Reports are the Future

The last decade has seen an explosion of technological innovation, yet many safety processes have gone unchanged. Too often, the motto in construction has been, "*if it's not broken, don't fix it*," rather than, "*don't settle for second best*." Digital safety reports help companies capture more safety data, analyze it better, and implement changes more quickly. Yes, pen and paper have worked for thousands of years, and Excel has been going strong since 1985, but the horse and buggy worked for a time, too. With employee safety on the line, second-rate safety processes don't cut it.

Adopting innovative safety report processes have an added benefit: employee recruitment. As the construction industry faces a labor shortage and struggles to attract younger employees, digitizing safety reports is a step in the right direction. The next generation of construction workers is a diverse group of digital natives. Traditional safety reports epitomize the aspects of construction work that keep future workers away. If done poorly, traditional safety reports reinforce the idea that construction is dangerous; if done manually, these reports lead construction to come across as outdated in a digital world.

Benefits of Digital Safety Reports

The time is ripe for changing safety report processes. For decades, people have seen construction injuries as inevitable. But they don't have to be. Safety reports of any type help, but digital safety reports go one step further. With the right system in place, digital safety reports transform what was once marks on a piece of paper into valuable data. As companies fill out digital safety reports, they can track, report, and analyze safety issues to monitor safety performance over time, identify trends, and stop injuries before they happen.

Digital safety reports also benefit the bottom line. The construction industry abounds with safety regulations, and liability and compliance concerns come with these regulations. When a workplace injury occurs, a company must show that it has done its due diligence to create a safe work environment. Failing to do so places the company at risk of lawsuits and fines from **OSHA**. With digital safety reports, companies can quickly access their reports and show the steps they've taken to ensure safety to the best of their ability.

Transitioning to Digital Safety Reports

The first step in digitizing construction safety reports is developing a system for collecting and storing data. This typically involves selecting a software platform or system teams can use to fill out and store reports. In most cases, ease of use should be a top feature to look for in a platform for safety reports. You shouldn't need an IT degree to complete a basic safety report. And with the right solution, everyone from 16-year-old summer workers to 60-year-old veterans can quickly adapt to digital safety reports.

Furthermore, ease of use should extend beyond completing the report to accessing and analyzing data from the reports. With cloud-based solutions, everyone from general contractors on site to executives in the boardroom can instantly access reports at the click or tap of a button.

Once a system is selected, the next step is to develop a process for collecting and reporting safety data. This typically involves developing a template or form that teams can use to collect data, such as the date of the incident, location, description of the incident, and any corrective actions taken. The template must include all the information necessary to ensure compliance and minimize liability down the road.

The final step is to develop a system for analyzing and monitoring safety performance. This typically involves setting up automated reports that can be used to identify patterns and trends in safety performance. This is especially beneficial for large-scale construction projects, as it can help to quickly identify potential risks and take appropriate action to address them.

No-code Platforms are Perfect for Digital Safety Reports

No-code platforms are quickly becoming the go-to option for digitizing safety reports. These platforms allow construction teams to benefit from advanced automation without needing a technical background. Using a no-code platform to create a customized safety report is as simple as dragging and dropping workflow blocks on a screen and selecting options from drop-down menus.

More specifically, construction companies are prioritizing no-code platforms tailor-made for the industry. These have built-in templates to cover a wide variety of scenarios, as well as automated compliance checkers. Because they're made with construction in mind, these no-code platforms have a faster learning curve, allowing employees to spend less time learning the platform and more time focused on increasing safety.

Digital Safety Reports in Action

A leading mid-Atlantic construction company conducted 2,200 safety inspections per year. Each inspection required at least four pieces of paper which employees had to scan and email to various stakeholders in the company. Once received, corporate employees had to enter the information into a database manually. The process wasted time and frustrated employees.

Then, the company turned to a no-code business process automation platform designed for risk management processes. They eliminated 20 minutes per inspection and saved 10,000 pieces of paper annually.

As soon as employees on the job site filled out a report, it was available to corporate employees on the cloud. With centralized data, they gained deeper insights into safety data to help prevent injuries.

Furthermore, they received real-time compliance alerts to proactively ensure compliance and reduce liability.

Creating a Safer Future for Construction

In 2020, the construction industry experienced more preventable fatal injuries than any other industry. Safety reports, when taken seriously, can be a crucial part of changing this. But manual processes stand in the way. Digitization is the way forward.

When construction managers fill out safety reports by hand, they're more likely to make errors, not provide all the necessary information for compliance, or simply misplace the document. By digitizing safety reports, construction managers can quickly fill out standardized reports on mobile devices.

Furthermore, with cloud-based software, managers can store all files in a centralized location, making accessing the documents and implementing necessary changes easier. And in the end, this means safer work environments for today, and tomorrow's, construction professionals.

How Jobsite Data Becomes Legal Evidence

The impact of the **construction labor shortage** is now seeping into the **courtroom.** Here's an **increasingly familiar scenario** that has – **or is likely to happen** – to many **General Contractors** (GCs).

A project is **moving along on time** and on budget when suddenly there **aren't enough workers** or subcontractors available to complete the **project on time.** Existing crews are **spread too thin** and quality suffers. The anticipated **completion date gets extended,** the client gets upset and **begins questioning** as to whether it will **meet the completion date.** Depending on the contract, the **client may withhold payment** or request that the **GC accelerate its work** to timely complete the project. **As both sides argue** their points, the **GC needs to prove they and** their subcontractors have **sufficiently manned the project.**

This Is Where It Can Get Tricky — Many GCs and subcontractors still use old school processes for **documenting workers** and subcontractors on jobsites with the use of **paper sign-in sheets** or manual recording (*i.e. Excel spreadsheets*). Those forms **somehow make their way** back to the main office and are **sometimes transferred** into a project management platform, **payroll software** and/or **filed away in a cabinet.** The forms **aren't always legible,** complete or accurate.

A **similar scenario happens** with the daily log. The sign-in sheets can **inform part of the daily log** while the **rest of the information** is largely based on **memory of what happened,** punch list status, weather, **deliveries, etc.** And the reports are **often done at the end** of a long day. Here, too, relying on **paper forms and memory** is not the best idea, especially if the **project eventually ends up** in a lawsuit.

A construction litigation attorney offers '*having someone comb through stacks of daily sign-in sheets and daily logs, from months or years later, is time consuming at best and at worst, detrimental to the GC's case.*'

Labor Shortage Continues — These **situations shouldn't come** as a surprise and their impact can be **minimized.** It's no secret that the **construction labor shortage** has been an **on-going issue** for over a decade. **More recent data on the situation** from the Associated Builders and Contractors reports that **construction currently needs** more than a **half a million workers** above its **current pace of hiring** in order to meet demand.

As the **labor shortage continues** and the use of **digital tools increases** on jobsites, **GCs can't ignore the importance** of using them to **automate outdated processes** and create digital records that are **easy to access and understand.** While the tools can't **create more workers,** they can help maximize the **productivity of everybody** on the jobsite by **reducing admin work.** In fact, workers are **asking for them.**

In a recent survey conducted by the **National Association of Women in Construction** and **Safe Site Check In,** 95 percent of **respondents reported** being more **productive through the use** of new technologies **built for the construction industry.** When asked which of the **latest construction** technologies are most helpful, the **top answer was smartphone apps** for managing **projects and the workforce.**

Since the pandemic, the **number of digital tools** on the jobsite has increased. At first **they were used to conduct health** screenings and now they've morphed into a **way to manage people** and projects in the field **while keeping digital records** of what happened and who was there. **Based on the example above,** the information **contained in a daily log** can be evidence demonstrating that a **contractor's lack of manpower** was not the **driving force** for the delay to the project.

Yet **digital records** from the jobsite **aren't just about protecting** the company from a **legal perspective.** It's also about **running a more efficient** business. By shifting from **paper to digital,** you cut down on **admin and maximize productivity** of everybody onsite. For example, the **daily log can be crowdsourced** from digital check-in records including **documentation** of who was there, **when they started,** and their **assignment for the day.** All of that data can **automatically flow right** into a project management platform. This gives the **GC insight into the profitability** and productivity of each job, and **lets them know in advance** of potential delays **due to workforce issues.**

As **digital transformation** makes its way to the **construction industry,** we will see more cases where **digital jobsite data is relied** upon as evidence. It's in the **GC's best interest to take advantage** of the latest **digital tools and platforms.**

Addressing the Challenges of Making PPE for Women

OSHA notes significant progress has been made over the past several years in the availability of PPE for women, with the International Safety Equipment Association (ISEA) reporting many employers now provide a full range of sizes for PPE.

Outfitting all workers with **comfortable PPE** can increase **compliance** and lead to a **safer, more productive** workforce. The return on **investment** in proper **Personal Protective Equipment & Clothing** (*PPE/PPC*) is **immeasurable** against the **cost of an accident.** This is especially the **case for women.**

A **National Institute for Occupational Safety and Health** (*NIOSH*) report notes that **PPE and PPC** such as respirators, **gloves and work boots** are mostly designed to **fit average sized men,** thus offering **reduced protection** to **women in construction.**

Enclothed Cognition

Among the **issues women face** when **sourcing PPE is fit,** altering PPE, comfort and compliance, **workplace heat stress** and confidence and **'enclothed cognition,'** a term defined by the **American Psychological Association** to describe the **systematic influence** that clothes have on the **wearer's psychological processes,** including their **symbolic meaning** and the **physical experience of wearing** them.

Clothing **not only enhances** one's **psychological state,** but can **improve performance** on tasks, according to the **Journal of Experimental Social Psychology Study**. In a **document produced** for **National Safety Apparel** and **Safeopedia**, '**Comfort & Compliance in Women's PPE**', the point is made that it is the **employer's responsibility** as outlined by the **National Fire Protection Association** and the **Occupational Safety and Health Administration** (*OSHA*) to identify **all potential hazards,** adopt engineering controls for **hazards to be mitigated,** provide the **appropriate PPE for hazards** that **cannot be eliminated,** and educate employees on **potential hazards and proper** use and **care of PPE.**

Minimizing Injuries and Accidents

Issues relating to **fit include decreased mobility,** dexterity and **coordination** through **oversized garments** and gloves, as well as **improperly fitted boots** or shoes. There is a **concern of increased risk** of injury or **accidents through ill-fitting** hard hats **sliding or falling off;** oversized **safety glasses leaving gaps;** a poor fit leaving **area of exposure,** and oversized garments **leading to tripping** or catching on **equipment.**

Concerns over **altering PPE** is that doing so **does not address ergonomics.** It also reduces efficacy, **voids manufacturers' warranties** and garment compliance with **ANSI/ISEA 107 for high visibility** and **NFPA 2112 for flash fire** and contributes to **injury in the event** of an incident.

The risk of **non-compliance is high,** leaving workers **prone to injury,** burns and **other injuries requiring hospitalization** and high **monetary costs.**

A **comfortable garment** is lightweight in that it **doesn't 'weigh down' the woman** wearing it, is **breathable in allowing heat** and air to **flow through** and is **moisture-wicking.**

In contrast, **heat stress can result** in fatigue and **confusion,** cramping, **dizziness,** heat rash and **heat stroke,** with risk factors including **dehydration,** overexposure to high heat, **high exertion and lack of rest,** and some **health conditions.** According to **OSHA,** workers suffering from **heat exhaustion are less alert** and at **greater risk for accidents.** One option is the **phase change technology** developed for **NASA** which reduces **perspiration up to 34 percent,** with temperature **regulation balancing skin** temperature **plus or minus three degrees.** One woman-specific benefit is it helps **increase comfort during** hot flashes.

Other Considerations

In **addressing issues regarding** PPE for **women in construction,** OSHA notes **women's PPE should be based** upon **female anthropometric** (*body measurement*) data, the **agency points out.**

Women should **test employer-provided PPE** and report when it is an **improper fit** or damaged from **wear or defect** for a **suitable replacement.**

NIOSH notes the construction industry should **encourage PPE and PPC** manufacturers to **collect information** on all sizes and **use it to expand the range** of sizes offered in **both clothing and equipment,** basing **PPE and PPC on female measurements.**

NIOSH also notes that union **apprenticeship programs** should provide **tradeswomen with resources** on where to **find equipment and clothing** that fits and **employers should ensure** all workers of **all sizes have well-fitting PPE** and PPC for **safe and efficient** performance.

OSHA notes **significant progress** has been made **over the past several years** in the availability of **PPE for women,** with the **International Safety Equipment Association** (*ISEA*) reporting many **employers now provide a full range** of sizes for PPE. A **comprehensive list** of manufacturers offering **safety equipment** in various **sizes appropriate for women** in **construction** can be found here.

5 Steps to a Safer Construction Jobsite

Anytime is a great time to hold a quick refresher session with your team. Share these five steps for a safe shift with your heavy equipment operators to help make every day a safer one.

1. Walk Around the Machine First.

Before you get in the cab, conduct a detailed walkaround. Doing so should only take 10-15 minutes, so don't skip this step even if you're in a hurry to start your shift.

- *Look for cracked welds, loose lug nuts or bolts, black marks on the paint — anything that could cause a malfunction or indicate a safety issue.*

- *Remove any built-up debris or waste on the ladder or steps, where it could cause you to trip or fall.*

- *Scan the work area and make note of potential hazards. They may be easier to see while you're still on the ground.*

- *Perform checks in the same order every day. That way, you'll more likely notice if an issue needs addressed.*

2. Climb on Right.

That sounds simple enough — but did you know this is when most heavy equipment injuries occur? Always maintain three points of contact (*two hands and one foot, or two feet and one hand*) while facing the machine as you climb on or off equipment to prevent a fall. And never jump off the machine or try to get on or off a machine with tools or other items in your hands.

3. Buckle Yourself In.

Why wear a seat belt when your machine doesn't travel fast and you've got a rollover protection structure (*ROPS*)? A study was conducted comparing machines with and without ROPS and operators with and without seat belts on. Only when operators wore seat belts in a ROPS-protected cab were there zero fatalities.

4. Scan, Scan, Scan.

Don't get so caught up in the work that you forget to keep an eye on the work area. And don't become over-reliant on cameras and safety technologies. They're great tools, but nothing can take the place of looking and double-checking for yourself. Follow the three-point scan technique: Check your backup camera, check your mirrors, then check again by turning and looking in the direction you plan to move.

5. Leave as Safely as You Started.

- *Before you get out of the seat, put your machine in neutral or park, engage the parking brake and lower the implement.*

- *Remember to maintain three points of contact as you climb off the equipment.*

- *Perform a quick scan of the machine. Let your supervisor know if you spot any damage or problem indicators, so they can be corrected before the next shift.*

- *Check your surroundings for other equipment or vehicles before you walk away from your machine.*

- *Keep the focus on safety year-round. A toolbox talk is a great way to start a shift, with quick topics touching on equipment, attachment, personal and job site safety.*

Ten Safety Tips for Operating Mobile Elevating Work Platforms on the Jobsite

Providing safe, productive Mobile Elevating Work Platforms (MEWP) should be a priority. Once the equipment is in the field, operators must follow the prescribed operating practices outlined in the manufacturer's recommended guidelines to keep the equipment working safely and productively.

In the approach of adopting good practices to ensure safe use while operating an MEWP on a jobsite, operators should know and follow these 10 tips for safe work practices:

1. *Read, understand and obey all of your employer's safety rules and worksite regulations, as well as any applicable local, governmental or provincial regulations that apply before operating the machine.*

2. *Perform a pre-operation inspection and function tests on the equipment before each shift. If the machine fails any of these tests, make sure it is immediately tagged and removed from service until it can be repaired by a qualified service technician.*

3. *Perform a workplace risk assessment prior to moving the machine to the jobsite. Look for drop-offs and holes, slopes, slippery or unstable surfaces, overhead obstacles, power lines and any other hazards that may exist and develop a plan to avoid those hazards through all phases of machine operation.*

4. *Wear the proper fall protection. A properly fitted full body harness and appropriate adjusted lanyard or self-retracting lifeline will reduce the potential for an operator being catapulted from the platform of a boom. The slightest jar at the base of the machine can equate into a sudden and powerful whiplash at the platform — if this happens, wearing the proper fall protection may reduce the chances of serious injury or even death.*

5. *Do not sit, stand or climb on the platform guardrails. Operator should maintain a firm footing on the platform floor at all times. If an operator is required to reach an overhead work area that is too small for the platform guardrails to allow access to, the use of a MEWP manufacturer-approved device, specifically designed to provide additional access to confined spaces, is recommended.*

6. *Do not exit an elevated boom or scissor lift platform unless a rigorous and robust risk assessment indicates that this is the safest and most effective means of accessing a particular location and you have been properly trained to do so. In this case, you must maintain 100 percent tie-off at all times and must be in possession of an approval letter from the manufacturer that provides the proper guidance. Always adhere to the national/local/job-site policies and requirements about the task of exiting at height, where existing.*

7. *Do not climb down from the platform when it is raised. Whenever possible, keep a cell phone or two-way radio with you while you are in the platform and always have a rescue plan in place.*

8. *Keep the platform floor clear of debris. Scrap materials, buckets, large tool boxes and other items can cause a serious tripping hazard — you should remove any item from the platform that is not absolutely necessary to do your work.*

9. *Lower the platform entry mid-rail or close the entry gate before operating a MEWP. Never tape or prop the entry open, and never use an aerial machine if the gate does not properly latch.*

10. *Receive proper training (both general training and hands-on practical training) on, as well as become familiar with, the exact MEWP you will be operating. This includes thoroughly reading the operator's manual and safety signs on the machine, as well as understanding the function and location of all safety devices and controls before beginning operation.*

Be sure to follow these simple, safe operating tips to keep your MEWP performing productively day in and day out, from one application to another.

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.

Don't be Dishonest with Insurers to Lower Premiums

The consequences of dishonesty when it comes to the information provided for an insurance policy can be devastating.

Consider the documented case of a driver who was reentering the industry and starting his own trucking company. After completing the insurance application with an agent, that agent submitted it to several insurance companies only to find that all of the companies he typically worked with declined to even offer a quote.

The agent reviewed all the information. None of the company owner's drivers had any tickets or violations, there was only one insurance claim from the gentleman's past (not uncommon for most drivers), and the trucks and trailers were all on the newer side.

He then contacted one of the insurance carriers, who noted the owner's previous federal operating authority had been revoked because his insurance had been canceled by the insurance company.

If you are ever tempted to -- or if anyone (a business partner, friend or even an insurance agent) suggests you should -- mislead your insurance company, don't do it. Here are some of the most common deceptions:

1. *Not including all vehicles owned or operated on the policy (this includes trucks and trailers).*

2. *Not including all drivers on the policy.*

3. *Utilizing someone else's address as a garaging address.*

4. *Utilizing a P.O. Box address as the physical location of the business.*

ME ON THAT ONE 60-DEGREE DAY IN FEBRUARY

While these deceptions might reduce your premium, they are also valid reasons for an insurance company to cancel your insurance policy. Once that happens, it follows you like a bad smell after hitting a skunk. No matter how hard you try, you just can't get rid of it and nobody wants to park next to you in the truck stop. That's basically how insurance companies deal with dishonest owners.

Trucking Researchers Launch Survey On Marijuana Legalization Impact

The **American Transportation Research Institute** recently said it has **launched a survey** seeking **motor carrier input** on the impact of **marijuana legalization** on the **trucking industry's** workforce.

This **research was identified** as a **top priority in 2022** by **ATRI's Research Advisory Committee** and will expand on **ATRI's 2019 study** on the impacts of **marijuana legalization** on **roadway safety.**

Motor carrier **staff and executives** familiar with **driver recruitment,** retention, and **drug testing practices** and trends are **asked to share** their input through the **online survey. ATRI** said this **research will provide** insight into the specific **challenges motor carriers** face as the use of **recreational marijuana** grows in the U.S. The findings should also **provide insight into approaches** the industry can take to **address these challenges.**

ATRI's survey comes on the **heels of new data** showing nearly **41,000 truck drivers** tested positive for **marijuana in 2022,** a **32% increase over 2021,** according to information from the **Federal Motor Carrier Safety Administration's Drug & Alcohol Clearinghouse.**

The **new report shows** more than **100,000 truck drivers** have **tested positive for marijuana** since **FMCSA** opened the **clearinghouse in 2020.** Truck drivers who **test positive for marijuana** — and other drugs — are **prohibited** from driving, and must **enter a "return-to-work" process** and **retest to get back** behind the **wheel.**

"*States are moving quickly to legalize recreational marijuana use*," said Fred Fakkema, vice president of **Safety and Compliance** at Zonar Systems and chairman of the **American Trucking Associations' Law Enforcement Advisory Board.**"*This rapid change directly impacts fleets and their workforce; ATRI's research will help quantify those impacts.*"

Recreational **use of marijuana** is legal in **21 states,** Washington, D.C., and Guam.

Marijuana for **medical purposes** is legal in **38 states.**

However, **marijuana use is still banned** for those **holding a CDL.**

ATRI's confidential survey is available online here and will **remain open through March 17.**

CVSA Upcoming Program Dates

- The next International Roadcheck **is scheduled for May 16-18, 2023.**

- **The next** Operation Safe Driver Week **is scheduled for July 9-15, 2023. Throughout Operation Safe Driver Week, law enforcement personnel will be on the lookout for commercial motor vehicle drivers and passenger vehicle drivers engaging in risky driving. Identified unsafe drivers will be pulled over and issued a citation or warning.**

- CVSA's Operation Airbrake Program **will hold two annual brake safety campaigns in 2023. The next Brake Safety Week is scheduled for Aug. 20-26, 2023.**

- There will also be an unannounced one-day brake safety enforcement initiative, which may be held at any time.

Legal Medical & Recreational Marijuana States

States with legal medical marijuana
States with legal medical & recreational marijuana

Why FMCSA Keeps Revoking Elds, and How to Tell if Yours is Next

The **FMCSA** recently revoked **three ELD's in a two-week** span. Now, an **ELD service provider** is speaking up about what he **feels has changed** -- and possible **signs your ELD could** be next on the **chopping block.**

This **service provider outlines** how the **FMCSA** goes about **reviewing and revoking ELDs.** He believes the **agency is currently** 'cracking down on **ELD providers who sell products** that don't **100% align** with the **ELD mandate,'** and notes that **any time a driver** is transferring their **hours data to an inspector,** the inspector is **checking** that not just the driver, **but the ELD itself,** is compliant.

If the **inspection does find** issues with the **ELD provider's data,** that provider **gets an email**. Messages like this from the **FMCSA** go out to **ELD providers citing issues** in the **technical parameters,** and **requesting fixes.**

It's **important to note** that this **provider itself** isn't at **risk of falling out of compliance** and having **its ELD revoked.** He stated '**when an ELD data transfer** is found to **have errors,** the **FMCSA** technical team will **highlight the errors** and request a **plan of action** to fix the issues **within 72 hours.** If **there is no reply** to the email, it is **likely that more attempts** will be **made to get a plan of action,** and if **nothing comes back,** the **provider will be revoked.'**

But if the **ELD provider does get back** with **a plan of action,** he added he feels 'the **FMCSA** will be **pretty lenient and allow** the provider the **time they need** to take the **corrective action.'**

This **service provider provided** context **directly following a roadside** inspection of '**one of our ELD customers,'** he said. 'It **looks like their system** is getting **more advanced** at picking out **items that do not** align **100% with the mandate.** Our issues **were small,** and about the **length of notations** for records of **duty status** and the resolution of the **GPS data while** on **Personal Conveyance.** I think this **advancement of finding issues** during roadside i**nspections** could be why the **FMCSA** is able to **crack down** on more of the **ELD providers** that are not **following the mandate.'**

The **FMCSA** wouldn't say **outright if there's** any new *crackdown* underway, or some new **methodology,** but **didn't deny it either.** "**FMCSA** has been **actively monitoring compliance** of ELDs since the implementation of the rule," said an **FMCSA** spokesperson. "**Our investigative process** has certainly evolved, **resulting in more efficient** and **sophisticated methods** of identifying **ELD vendor compliance** issues, as well as **ELD misuse."**

The **service provider** is also **correct that roadside** stops play a role in **finding issues** with ELDs, but **FMCSA Compliance Investigations staff's** in-person carrier **audits and other reviews** "also **play a vitally important** role in **identifying potential ELD issues,"** the **FMCSA** spokesperson added.

How to tell if your ELD will be revoked

The **FMCSA's** [complete technical standards](#), with which **ELD providers must comply,** are laid out in **voluminous detail in regulation.** The **revocation process** is laid out there, too, and it **includes required notice** by the **agency to the provider,** a time frame for **response,** and consequences that follow. You **can find that process** in the **"Removal of Listed Certification"** section at the **previous link.** For an **owner-operator,** determining whether or **not a provider is 100%** complying with **technical standards** might seem an i**mpenetrable task**, but the service provider **laid out what he felt** could be **common signs** that an **ELD isn't long meant** for the **FMCSA's certified-device registry.**

His **first recommendation boils down to this:** If it **sounds too good to be true, it probably is.**

If your **ELD allows you to edit automatically** recorded **drive time,** that's **never going to be compliant.** 'A **common example** of drive time editing is **when a driver forgets** to indicate **Personal Use before moving** their truck to a **different parking spot.** If you are able to edit that **Driving status to PC** or **Off Duty,** or if you are able to **delete the status altogether,** this should be **cause for concern,'** he wrote.

During the **early days of the ELD mandate,** the prior **Automatic Onboard Recording Device** standard **did allow for editing** automatically recorded **drive time,** though not by the driver. Under the **AOBRD standard,** those '**back office'** or **administrator-account edits** weren't visible to **roadside inspectors,** either. The **AOBRD grandfather period** ended in late 2019, however, and **under the current ELD standard,** such drive-time **edits are impossible.** All edits otherwise, too, are **visible at roadside** with data transfer.

Other **issues center around customer** service and **staying updated.** Poor **technical support** and **customer issue resolution?** Don't expect that **provider to be very responsive** with timely communication to the **FMCSA,** either, in the **event their compliance checks** flag an issue. The **ELD isn't compatible** with other **APIs?** Could be **another bad sign** that the **ELD doesn't play well** with others, or **might not be keeping up** with the **latest updates** the service provider stated.

He also **felt that 'white-labeling,'** when **one company sells an ELD supported** by another **company's technology,** held potential to **create barriers to timely updates.** There's nothing **illegal about the practice** of white labeling, of course. But if for instance the **FMCSA reaches out** to the **original provider** with an email **like the one shown above,** he felt the **white-label version might miss** the necessary updates to the **original** -- opportunity for it, thus, **to pop out of compliance.**

Finally, he advised, it's **good practice to occasionally check** in at the **provider's website** for updates **and timeliness.** The **FMCSA** frequently **reaches out to ELD providers** to make updates. If the **website feels like the lights** are on **but nobody's home,** it could be a **sign that noncompliance looms** just **behind the next update.**

The **FMCSA** keeps its **registry of self-certified ELD** devices at this [address](#). The agency's **main landing page for ELDs** is [here](#).
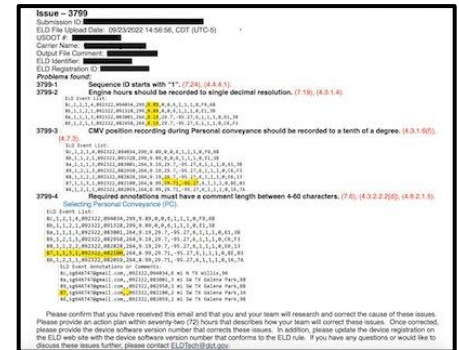
FMCSA Proposes Long-Overdue CSA Carrier Safety Measurement System Revamp

FMCSA has launched a preview site that allows carriers to log in and see their carrier profile with the proposed SMS changes. A portion of the updated scores for an example carrier are shown here. The Federal Motor Carrier Safety Administration published recently a notice of proposed changes to its CSA carrier Safety Measurement System based in part on recommendations from a 2017 National Academy of Sciences study (*required by Congress almost a decade ago*).

FMCSA released a report in 2018 that laid out how the agency planned to proceed in reforming its Compliance, Safety, Accountability program, including a revamp of the SMS.

In its report, NAS agreed that FMCSA's approach to measuring carrier safety, based on crash prevention rather than prediction, is sound, the agency asserted, though the notice scheduled to publish Feb 15th makes clear that NAS, as previously reported, urged a variety of improvements to the overall CSA SMS approach. FMCSA's notice focuses on one of six NAS recommendations to FMCSA regarding improvements to the SMS, which was to develop a so-called Item Response Theory (IRT) model to more accurately target at-risk carriers for intervention.

Yet FMCSA is not adopting such a model, as the agency lays out in the notice, rather changes to various aspects of the current SMS that FMCSA Administrator Robin Hutcheson believes will enhance "the fairness, accuracy, and clarity of our prioritization system," she said.

New CSA SMS category structure

When testing an IRT model, FMCSA found "many limitations and practical challenges," concluding that IRT modeling doesn't perform well in identifying carriers for safety interventions. Instead, the agency found during the IRT modeling study that certain areas of the SMS "could be improved to better identify high risk carriers for intervention, without the complications inherent in adopting an IRT model."

As part of those changes, FMCSA proposes to reorganize the current Behavior Analysis and Safety Improvement Categories (*BASICs*), which will be renamed "safety categories," to better identify specific problems. To achieve this, FMCSA proposes to combine the current 959 violations used in SMS, plus 14 additional violations not currently used in SMS, into 116 new violation groups.

FMCSA is moving the Controlled Substances/Alcohol and Operating while Out-of-Service (*OOS*) violations into the Unsafe Driving category to "help focus FMCSA's investigative resources on carriers with higher crash rates," FMCSA said. The agency is also splitting the Vehicle Maintenance category in two -- Vehicle Maintenance: Driver Observed and Vehicle Maintenance. The new "Driver Observed" category will be reserved for roadside-observed "violations that could reasonably be observed by a driver" during a pre- or post-trip inspection, "or detected as part of a Walk-Around (*Level 2*) roadside inspection.

Reorganizing the Vehicle Maintenance categories, FMCSA believed, will "provide more specific information to help motor carriers and enforcement pinpoint unsafe driver behavior and sources of vehicle maintenance issues."

Preview violation severity weight, category intervention threshold changes

Additionally, proposed changes include a dramatic simplification of violation severity weights, currently assessed on a 1-10 scale (*with 10 the most safety-negative*); changes designed to eliminate percentile-ranking jumps that occur when carriers move into a new safety event group, a well-known issue for small carriers; and adjusting safety categories' intervention threshold, the percentile ranking at which a carrier is prioritized for investigation or other follow-on agency/state action.

Currently, FMCSA uses a 1-10 weighting scale for violations in the SMS that are intended to reflect the violation's relationship to crash occurrence and/or crash consequences. Under the new proposed SMS, all violations will receive just one of two severity weights -- namely, 1 or 2. Out-of-service violations for any safety category except Unsafe Driving will receive a 2, as will driver-disqualifying violations in the Unsafe Driving category.

For intervention thresholds, current SMS methodology prioritizes carriers for investigations if their percentile rankings are at or above certain those thresholds. With the updated prioritization methodology FMCSA is proposing, the new Vehicle Maintenance: Driver Observed and Vehicle Maintenance safety categories will both have the same thresholds as the current Vehicle Maintenance BASIC:

- *80% for general carriers*
- *75% for Hazmat carriers*

The Hazmat Compliance thresholds will increase, meaning investigation could be less likely for more of those carriers:

- *From 80% to 90% for all carrier types*

Thresholds for the Driver Fitness category, containing primarily driver credentials-related violations, will increase as well:

- *From 80% to 90% for general carriers*
- *From 75% to 85% for Hazmat carriers*

A new website, the Compliance Safety Accountability (CSA) Prioritization Preview, which is now live, is the first phase of planned updates to FMCSA's SMS. Motor carriers can visit the website to preview how their data would appear under the proposed changes. Companies are encouraged to preview these results and submit feedback on the proposed changes.

FMCSA will accept comments on the proposed changes beginning Wednesday, Feb. 15, at www.regulations.gov by searching Docket No. FMCSA-2022-0066.

3 Miners Electrocuted in 10 Days

En Español

So far **2023 has been a deadly year** for America's miners, with **seven fatalities** in the **first six weeks.** Three of these **deaths involved electrocutions.** On Jan. 27, **two truck drivers** were electrocuted after a **14,400-volt overhead power line** came in **contact with their** trucks. They exited the **cabs of their trucks** and came in contact with **electrical energy.** Then on Feb. 6, a **haul truck driver raised** the truck bed into an **overhead power line.** The driver **exited the truck** to extinguish a **fire on the truck's tire** and was **electrocuted** when he **tried to reenter the truck.**

These kinds of **tragedies can be prevented,** and the **Mine Safety and Health Administration** is urging **mine operators and miners** to Take Time, Save Lives. **Putting safety first** and following these **Best Practices** will help **prevent any more deaths** or **injuries:**

Electrical safety when operating vehicles

- *Do not stage, park or position trucks, cranes or other equipment under overhead power lines.*
- *Post warning signs at all approaches to overhead power lines and install barricades where necessary.*
- *Establish safe approaches and create safe zones for raising and lowering truck beds, booms and masts.*
- *If your truck, boom or mast contacts an overhead power line:*
  - Remain inside the vehicle
  - Call emergency response personnel
  - Inform others to stay away
  - Exit the truck only if it is on fire. To exit, jump from the truck landing with both feet together. Do not touch the truck and ground at the same time. Then, shuffle both feet as close as possible for at least 30 feet as you move away from the truck.

General electrical safety

- *Never work on machinery without locking out and tagging out the power source.*
- *Don't go into electrical switchgear. That's a job for the electrician.*
- *Replace damaged extension and damaged drop light cords.*
- *Don't let mobile equipment run over power conductors, or loads be dragged over any power conductors, unless the conductors are properly bridged or protected.*

Safety at major electrical installations

- *All major electrical installations must be locked out and checked for stored energy prior to work being performed.*
- *When a potentially dangerous condition is found it must be corrected before equipment or wiring is energized.*
- *Only authorized workers should enter areas containing major electrical installations.*
- *Protect employees working at switchboards by:*
  - *Having dry wooden platforms, insulating mats, or other electrically nonconductive material in place at all switchboards.*
  - *Using power control switches where shock hazards exist.*
- *All metal enclosing or encasing electrical circuits must be grounded or provided with equivalent protection. (This does not apply to battery-operated equipment.)*
- *Ground all metal fencing and metal buildings enclosing transformers and switchgear.*
- *Frame grounding or equivalent protection must be provided for mobile equipment powered through trailing cables.*
- *Test the continuity and resistance of grounding systems immediately after installation, repair and modification, as well as annually. Keep records of the resistance measured, because the results of the most recent tests may be requested by MSHA.*

All miners deserve to go home safe and healthy at the end of their shift. Find more **mine safety and health information** and training materials. To report an **accident or anonymously report** a **hazardous condition,** call 1-800-746-1553 or use **MSHA's** online Hazardous Condition Complaint system.

Highwall - Safety Alert

Since CY 2012, falling rocks and materials from hazardous highwalls have resulted in 9 mining fatalities and 27 serious injuries.

Best Practices

- **Develop and follow a plan** for the safe control of all highwalls where miners work and travel in close proximity to the highwall.

- **Train miners to recognize highwall hazards**.

- **Conduct highwall examinations** and assure hazards (loose rocks, overhangs, trees, etc.) are taken down or supported prior to work or travel near the highwall. Examine more frequently after rain, freezing and thawing.

- **Scale highwalls** to eliminate hazards, e.g. loose rocks or overhangs. Perform scaling from a position that will not expose miners to injury. Until hazards are corrected, place warning signs or barricades to prevent entry.

- **Restrict highwall height** to allow available equipment to safely scale the highwall. If benching is necessary, provide adequate bench width based on the type of equipment used for routine clearing or scaling operations.

- **Develop blasting plans** and use proper blasting techniques. Examine highwalls after blasting.

- **Remove trees, vegetation, and unconsolidated material** a safe distance from the top edge of highwalls.

- **Never park equipment, perform maintenance or store materials beneath highwalls.**

- **Use diversion ditches or slope the ground** so that surface runoff drains away from highwalls.

Highwall-Safety-Alert.pdf

ANSI Z358.1-2014 – Emergency Eyewash & Shower Standard

Inadvertently coming into contact with toxic chemicals, corrosives, hydrochloric acid, ammonia and sulfuric acid can leave a worker with a serious burn injury or even a permanent disability, like blindness. According to the **U.S. Bureau of Labor Statistics** (BLS)'s number of nonfatal occupational injuries and illnesses involving days away from work by event or exposure leading to injury or illness and selected natures of injury or illness, private industry, there were 9,180 incidents of exposure to harmful substance through skin, eyes or other exposed tissue in 2020. If an incident does occur and a worker's eyes or body come into contact with hazmat, the timely use of emergency showers and eyewash stations can help prevent injuries or reduce the severity of injuries.

ANSI/ISEA Z358.1-2014, written and published by the **International Safety Equipment Association** (ISEA), an **ANSI-accredited standards developing organization**, establishes minimum performance and use guidelines for eyewash and shower equipment for the emergency treatment of the eyes or body of someone who has been exposed to hazardous materials. **It covers the following types of equipment:** *emergency showers, eyewashes, eye/face washes and combination units*. This standard also includes performance and use requirements for personal wash units and drench hoses, which are considered supplemental to emergency eyewash and shower equipment. Although **OSHA's 1910.151(c) regulation** states that **"***suitable facilities for quick drenching or flushing of the eyes and body shall be provided***"** in work areas where employees may be exposed to injurious materials, the agency refers to **ANSI Z358.1** as a source of guidance.

Why Standard is Important

The first 10-15 seconds after exposure to a hazardous substance, especially a corrosive substance, are critical. Delaying treatment, even for a few seconds, may cause serious injury.

Key Compliance Requirements

The standard contains specific language for both showers and eyewashes, including performance, installation, maintenance and training components.

Key Provisions of the Standard

Regarding personnel safety, there are multiple factors to take into account when handling hazardous materials in factories, laboratories or other workplaces.

- The standard covers emergency showers, eyewashes, eye/face washes and combination units. For all this equipment, the flushing liquid's velocity and quantity should be controlled, and a control valve should be simple to operate and go from off to on in one second or less. The valve should also be resistant to corrosion.
- Emergency showers and eyewashes should deliver tepid flushing fluid. However, there are certain circumstances in which a facilities safety/health advisor should be consulted for optimum temperature. Tepid fluid is considered 16-38 degrees Celsius (60-100 degrees Fahrenheit).
- The shower or eyewash station should be highly visible, accessible and reliable, in a location that takes no more than ten seconds to reach. They are a final level of protection, in many cases, as they can sufficiently combat any chemicals or other hazardous materials that may make contact with one's eyes or body.

Best Practices

- In the event of hazardous material being splashed in the eye, the eye should immediately be flushed with gently flowing, potable water for at least 15 minutes.
- The eye should be forcibly held open to ensure effective rinsing behind the eyelids, and the injured worker should move his or her eyes side-to-side and up and down during rinsing.
- Contact lenses should be removed.
- In the event of hazardous material coming into contact with the skin, the affected area should be thoroughly rinsed with water for at least 15 minutes.
- Contaminated clothing should be removed and safely disposed of.
- In both cases, medical treatment should be sought after emergency procedures are completed.

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 re: *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.

From all of us at
**MJS Legacy
Safety...**

Be safe out there!!

2023