



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

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

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

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

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

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*Articles in the newsletter referring to COVID-19 will show the release date of the information. We will do our best to pass along the most current information. However, if an article relates to you or your industry directly, you may want to check for any updates that might affect you.*

Here are some of the many helpful Resource links:

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



**COLORADO**  
Department of Revenue

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

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

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

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

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

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

## OSHA / CONSTRUCTION NEWS SUMMARY

▶ **COVID-19 Q&A** [read more...](#)

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

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

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

▶ **OSHA Releases Information on Top 10 Most Frequently Cited Standards for FY 2020** [read more...](#)

▶ **Best Practices for Protecting Against Workplace Violence**

Right now, it is a difficult time to be an employee in almost any industry. [read more...](#)

▶ **1 out of Every 29 Corporate Employees are Failing Their Random Drug Tests in 2021**

2021 corporate drug testing positivity rates are skyrocketing! [read more...](#)

▶ **FALL PREVENTION: Testing the human limits**

Falls are the leading cause of death in the construction industry, but safety warnings are so frequent they can turn into white noise. [read more...](#)



▶ **Hearing Protection: LET'S GET PERSONAL**

*Properly protecting workers' hearing goes beyond simple hearing protection devices.* [read more...](#)

▶ **How to Improve Your Visibility on a Construction Site**

In your life outside work, you might be as visible or as low-key as you want. But on a construction site... there's only one way to operate safely: [read more...](#)



▶ **Understand Standards to Manage Safety in Confined Spaces**

In construction and industry, some potential hazards visibly manifest, such as the risk of falls from heights. [read more...](#)

## TRANSPORTATION NEWS SUMMARY

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

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



▶ **Brake Safety Week dates announced...planned for late August**

Commercial Vehicle Safety Alliance has scheduled its annual Brake Safety Week for Aug. 22-28. [read more...](#)

▶ **Specific Sleep Apnea Screening Criteria Cut in Latest Draft Medical Examiner Handbook**

The latest draft handbook for certified medical examiners no longer contains previously proposed details on screening and treating sleep apnea that were part of a prior draft. [read more...](#)



▶ **Speed Limiter Legislation Reintroduced in Congress**

A bill most recently introduced in 2019 that would mandate speed limiters on all trucks manufactured after 1992 has been reintroduced in the U.S. House of Representatives. [read more...](#)

▶ **Driver Vision Qualifications, Diabetes Discussed at Medical Review Board Meeting**

FMCSA's Medical Review Board evaluated the vision standard for truck drivers... [read more...](#)



▶ **Truckers Crash on Ice to Avoid Moose ... was this accident preventable?** [read more...](#)



▶ **Trucking Orgs Unite, Call Proposed Truck Mileage Tax 'Shortsighted, Inequitable, Discriminatory'**

Senate Finance Committee asked to consider a truck-only Vehicle Miles Traveled (VMT) tax... [read more...](#)

▶ **FMCSA Extends COVID-Related Waivers Through August**

... including the hours of service waiver and the CDL, CLP and medical card validity extensions... [read more...](#)

▶ **Labor Dept. Officially Withdraws Rule to Define Independent Contractor Within FLSA**

The DOL is officially withdrawing a late-Trump-era rulemaking that would have clarified the definition of what it means to be an independent contractor... [read more...](#)

▶ **Best Practices for Controlling CSA Maintenance Violations**

No fleet likes to be dinged for a CSA maintenance violation. [read more...](#)



MSHA NEWS SUMMARY

▶ *More important information for...* **Safe Confined Space Entry**

*When Working in Chutes, Silos and Hoppers, Taking Special Precautions Can Save Your Life.* [read more...](#)



MONTHLY SAFETY & HEALTH TIP NEWS SUMMARY

▶ **Are you Guilty of These Common Misconceptions About Bad Safety Habits?**

What's that one worksite habit that really grinds your gears? Every safety pro has one pet peeve they hate to see but can't seem to eliminate. [read more...](#)



**MJS Safety OFFERS DRUG & ALCOHOL TESTING**

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

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

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

**“Training Spotlight”**

*(there will be a different course featured monthly)*

**OSHA 30 OUTREACH HOUR FOR GENERAL INDUSTRY OR CONSTRUCTION**

The OSHA 30 Hour course is designed to cover hazard recognition and mitigation for employees in General Industry and Construction. The courses cover the INTRODUCTION TO OSHA and other specified required course content of the current OSHA OUTREACH GUIDELINES. Upon completion students receive a Department of Labor OSHA Outreach card. Class is for 30 contact hours, not including lunches and breaks. Per OSHA guidelines this class must be no more than 7.5 hours in each day., and requires a minimum of 4 days to complete. Both courses cover the INTRODUCTION TO OSHA and other specified required course content of the current OSHA OUTREACH GUIDELINES. This course requires a minimum of 3 people to conduct.

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

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

**SOURCES FOR THIS ISSUE INCLUDE:**  
 OSHA  
 FMCSA  
 USDOL  
 ISHN  
 CDC  
 Overdrive  
 CCJ  
 MSHA  
 NIOSH  
 OHS online  
 DISA Global  
 Solutions  
 Rosendin Electric  
 NSC  
 For Construction  
 Pros.com  
 Rock Products  
 Daniel Marshall –  
 Martin Engineering  
 Product Engineer

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

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

- **\*PEC Safeland Basic Orientation: June 7, 17, 29; 8 – 4:30;**  
*This class available through video conference instructor led distance learning through 2021 - only upon request*
- **\*First Aid/CPR/AED/BLOODBORNE PATHOGENS (We offer MEDIC FIRST AID): June 14; 8 – noon;**  
*This class available for blended learning (online) with remote or in-person skills assessment*
- **\*Hydrogen Sulfide Awareness [ANSI Z390 -2017 Course]: June 14; 12:30 – 4:30;**  
*This class available via Instructor Led video conference*
- **\*OSHA 10 HOUR - General Industry or Construction: Spanish OSHA 10 Hour for Construction: June 8 & 9;**
- **\*Fall Protection Competent Person: June 30;**

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

► **NEED ANY OF THESE CLASSES IN SPANISH? CONTACT [carriejordan@mjssafety.com](mailto:carriejordan@mjssafety.com) TO SCHEDULE TODAY** ◀

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

**— FEATURED TRAINING PROGRAMS —**

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

Order  
**First Aid & other Safety Supplies**  
[www.mjssafety.com](http://www.mjssafety.com)  
 Jeremy  
 720-203-6325  
 Carrie  
 720-203-4948

**Unable to attend a class?**

**MJS Safety offers multiple “ONLINE TRAINING COURSES”**

**including**

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

**or you can**

**Need Help With**

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

**CALL US!!!**

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



## OSHA / CONSTRUCTION

### COVID-19 Q&A



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](#).

### OSHA Releases Information on

#### *Top 10 Most Frequently Cited Standards for FY 2020*

After months of delay, the [Occupational Health & Safety Administration](#) has revealed the Top 10 Most Frequently Cited Standards for Fiscal Year 2020.

Although multiple standards swapped positions, the Top 10 violations from FY 2019 to FY 2020 did not change. Ladders ([1926.1053](#)) climbed to a top-five spot, and Respiratory Protection ([1910.134](#)) rose to the third rank from fifth. Additionally, the data show that Fall Protection – General Requirements ([1926.501](#)) is OSHA's most frequently cited standard for the 10<sup>th</sup> successive fiscal year.

The Top 10 were revealed during a webinar with *Safety + Health* magazine, where Patrick Kapust, deputy director of OSHA's Directorate of Enforcement Programs, presented the preliminary data.

The Top 10 for FY 2020 are:

1. Fall Protection – General Requirements (1926.501): 5,424 violations
2. Hazard Communication (1910.1200): 3,199
3. Respiratory Protection (1910.134): 2,649
4. Scaffolding (1926.451): 2,538
5. Ladders (1926.1053): 2,129
6. Lockout/Tagout (1910.147): 2,065
7. Powered Industrial Trucks (1910.178): 1,932
8. Fall Protection – Training Requirements (1926.503): 1,621
9. Personal Protective and Life Saving Equipment – Eye and Face Protection (1926.102): 1,369
10. Machine Guarding (1910.212): 1,313

“In a year that was defined by the ongoing pandemic, workplace safety became more important than ever,” said Lorraine M. Martin, NSC president and CEO. “The OSHA Top 10 list reminds us why we must continue to focus on persistent safety risks as we navigate new challenges. These data help us pinpoint areas where we can improve so we can better prioritize workplace safety in the future world of work.”

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.

# Best Practices for Protecting Against Workplace Violence

Right now, it is a **difficult time** to be an **employee** in almost **any industry**. Massive and **rapid shifts** in **workplace policies** have taken place to **fight COVID-19**. At the same time, **workers face** greater **economic** and **personal challenges** in **dealing** with the pandemic **economy**.

The **heightened levels** of stress and **mental illness** reported in **recent times** should give all **workplaces** reason to **reassess** their **workplace violence** protections. There are a **host of things** you can do to **better ensure** a workplace **free from violence**.

Here we identify **five best practices** for preventing **workplace violence** while providing **helpful resources** to all **employees**.

## 1. Identify the risks

No **workplace violence** protection **strategy** will be complete **without first** making a **comprehensive analysis** of possible **risk factors**. Workplace violence and **discrimination** can take **many forms**. Understanding these **forms** and where your **policies may put** employees at **risk** is the best **first step** you can take in providing **better protection**.

Here are some of the most common forms of workplace violence:

- Criminal intent, such as shoplifting, robbery, or trespassing.
- Client-on-worker
- Worker-on-worker
- Personal relationships

Depending on your **business model** and the **services** you provide, some of these **more than others** may present **more** of a threat. **Lone oil** and gas workers, **for instance**, will have **little risk** of **worker-on-worker violence** but could still face **spillover violence** from personal **relationships** while on the **job**.

Additionally, the **considerations** you will need to **take depend** on who **works** for you. For example, **ageism** can occur in any **workplace**, taking the **form** of **elder abuse** at its **most violent**. Your business model and **employee base** will inform your **risk analysis**, guiding the **steps** you take for a **safer workforce**.

## 2. Adopt a zero-tolerance policy against violence

While there are **no sure guarantees** against **workplace violence**, one of the best **policies** you can enact is **zero-tolerance** regarding **violence** both within and **outside** of the **workplace**. You want your **workers** to **feel safe**, and even seemingly **subtle threats** and **discriminatory actions** like **microaggressions** can damage your **efforts**.

That's why a **zero-tolerance approach** can be your **best bet** for a **safer workplace**. Instituting such a **policy comprehensive** enough to **reduce** even the **risk** of **microaggressions** first takes the **education** of yourself and **your employees**. Then, **support workers** with updated **written guidelines** and **disciplinary measures**.

Often, holes in **zero-tolerance violence** policies can **undermine** the **effectiveness** of anti-bullying **measures**. Prevent this from **happening** with clear language and **strict adherence** to written **disciplinary rules**.

## 3. Create and share a written plan

**Violence prevention** plans are only as good as they are **accessible**. Make yours a staple of **employee resources** by **disseminating** it in **written form** as easily **referenceable material**. Your violence **prevention plan** should include all of the **following guidelines**:

- How employees and management should commit and participate in violence prevention.
- Analysis of risk factors like dimly lit areas and lone workers.

- Hazard prevention and control measures.
- Health and safety training.
- How to keep records and evaluate the success of the plan.

These are the **bases** that you **should cover** when **developing** a plan to **prevent workplace violence**. From there, you can **address specific** circumstances and **risks** more particular to your **precise business** model. Focus on **clarity of language** when **formulating your plan** and vet it through **HR** and **employees** to generate their **feedback**.

In fact, seeking out **employee feedback** can be a **great way** to ensure you **don't miss** anything. At the **same time**, you'll **encourage employee engagement** in your violence **prevention program**.

## 4. Never retaliate against employees who report or experience workplace violence

One of the **most essential aspects** of maintaining a **violence-free** workplace is **ensuring** that **employees** do not feel they will be **punished** for reporting **problematic incidents**. Your **HR teams** and disciplinary **structures** should never **retaliate** against **employees** who **experience violence** themselves or **report** witnessing it **against another person**.

Despite **having programs** and **support tools** in place, businesses can **miss opportunities** to help **employees** when they **make them feel** as if reporting **inappropriate** conduct leads to **negative consequences** for themselves or the **victims**. Your violence **prevention approach** should place a priority on **confidentiality** while ensuring that **no victim** or **witness** is punished for **attempting to enforce** your **safety policies**.

## 5. Create programs and gather resources

When it comes to **violence prevention**, the **resources** you and your **employees** have on **hand are key**. Make sure your **library** of **educational sources**, programs, **affiliates**, and more has **enough information** to provide your **workplace** with **answers** to any **questions** that may **arise** in the efforts to **prevent violence**.

**MJS Safety** offers **training** to help you **learn ways** to use **team meetings** and **dedicated activities** to support **employees** and let them **know** their **safety** is a **priority**. Call **Carrie (720-203-4948)** or **Jeremy (720-203-6325)** to **schedule training** to better **build violence prevention** into the **culture** of your **workplace**.

## Securing your workplace against violence

Unfortunately, **workplace violence** has no **real cure**. You **cannot predict** or prevent every **harmful scenario** that may befall your **business**. However, you **can follow** these **five best practices** to cultivate a **culture** that **defies violence** and acts to **prevent it wherever** it is seen.

Start by **assessing** all your **specific risk factors** associated with your **staff**, **business model**, and **buildings**. Then, **coordinate training** and **resources** to give your **employees** an **added level** of **preparation**. While we **may not** be able to end **workplace violence** altogether, these **strategies** at least **allow us to prevent it where possible**.

# 1 out of Every 29 Corporate Employees are Failing Their Random Drug Tests in 2021

**2021 corporate drug testing positivity rates are skyrocketing!** As employees start **returning** to the workplace following **COVID-19**, it's more **important** now than ever for **employers** to implement **drug testing policies** and **procedures**.

Similar to other **national crises** in the past, the **coronavirus pandemic** has led to a **dramatic increase** in drug test **positivity rates** fueled by **individuals** turning to **self-medicating** to try and **cope** with the rise in **stressful conditions** (*isolation, financial challenges, health issues, etc.*). Although the **United States** is slowly **returning to normal**, similar studies **involving past crises** show that **drug abuse** increases and **remains elevated** long after the **initial incident** took place.

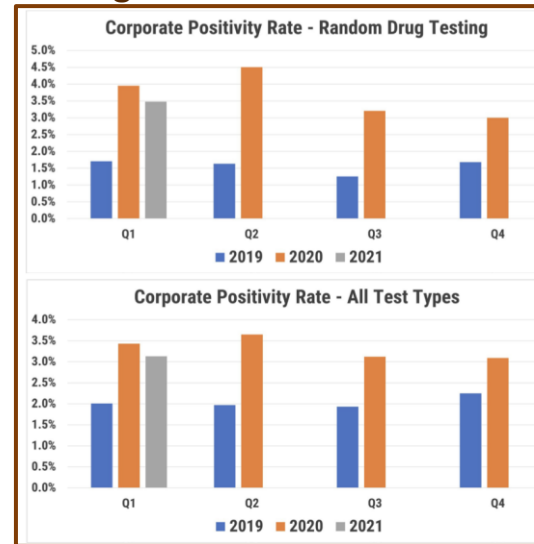
With a **year-long pandemic**, we can expect **no different**. Prior to **COVID-19**, DISA historically **saw programs** average a **1.5% positivity rate** for random **drug testing**. At the **beginning** of the **2020 pandemic** in May, **positivity rates** jumped up to **5.36%** for corporate **random drug testing**. While we've **seen the positivity rate drop since the peak**, Q1 is **still up more than double** from **Q1 2019**, jumping from **1.7% to 3.5%**.

## Why Corporate Testing Matters

While **employees** behind a desk **may not always** be at risk to **physically harm** someone, the damage to a **company's bottom line** or reputation **can be significant**. A study from the **National Council on Alcoholism and Drug Dependence Inc. (NCADD)** estimates that **drug abuse** costs employers **\$81 billion annually**, and 75% of the **estimated 14.8 million Americans** who **use illegal drugs** are **employed**.

Several **industry studies** have drawn a **correlation** between **substance abuse** by an employee and **on-the-job carelessness**, frequent mistakes, and **poor concentration**. Drug abusers are **also more likely** to have **increased absenteeism**, file for workers comp more **frequently**, and have **lowered productivity**. Depending on the **size of your workplace**, these **employees** can have a **detrimental impact** on workplace safety, **compliance**, and risk.

- *Substance abuse in the workplace causes roughly 65% of all on-the-job accidents, according to the U.S. Department of Labor.*
- *Half of all workers' compensation claims stem from substance abuse in the workplace.*
- *Workers with a substance abuse disorder miss nearly 50% more than their peers, averaging 14.8 days per year.*
- *Workers abusing pain medication are, on average, absent nearly 3x as much (29days).*
- *An estimated 80% of drug users supported their drug use by stealing from their work per the NDWA.*



## FALL PREVENTION: Testing the human limits



Falls are the leading cause of death in the construction industry, but safety warnings are so frequent they can turn into white noise.

National electrical contracting company, Rosendin, found an engaging way to educate workers by mixing science with creative storytelling techniques.

Their [video](#) demonstrates what would happen to the human body if a person were to fall from a height of 12 and 20 feet. Using ballistic dummies that are 95 percent recreations of the human body, the Rosendin team simulated falls in a controlled setting and brought in a medical doctor to provide on-site analysis of the injuries. They even do a mock autopsy to discover internal damage.

Rosendin's goal is to educate viewers on the importance of proper fall protection and prevent serious injuries and death. Check out the video!

## What Can Employers Do?

**Drug testing** positivity rates are on the **rise**, and **history** shows it could be a while **before it returns** to normal levels. As employers **continue** to deal with the **fallout** from a **global pandemic**, it's vital to educate **employees** on the **dangers** of drug abuse, **raise awareness** of random **drug testing programs** in place, and take **preventative measures** to enhance safety and **compliance** in their workplace.

By **implementing** a comprehensive **drug testing program** with multiple **testing methodologies**, employers can **eliminate any gaps** in drug use. For example, **hair testing** used in **combination** with **urinalysis** can **expand** the drug **detection window** up to **90-days**. It's also **important** that supervisors and **other appropriate** employees are **trained** for **reasonable suspicion drug testing practices**.

With the **legalization** of marijuana **laws varying** state-by-state, **employers** can take **additional precautions** by including a **medical disclosure** policy, which will **require employees** to inform their company when taking a **prescription** that could **impair** them in the **workplace**.

Taking time to **re-address** your company's **drug testing policies** and practices is a **standard procedure** and will **help mitigate risks** and prevent **potential fines/fees** further **down the road**.

# Hearing Protection: *LET'S GET PERSONAL*

## *Properly protecting workers' hearing goes beyond simple hearing protection devices.*

Excessive noise and Noise-Induced Hearing Loss (NIHL) are prevalent across industries, from manufacturing to construction and agriculture to oil and gas. More than 22 million U.S. workers are exposed to hazardous noise each year. In fact, NIHL is the [most common permanent and preventable occupational injury](#). Unlike most injuries, it is difficult to tell when a person has been affected by NIHL because it is painless and progressive. NIHL can be caused by continuous or intermittent exposure to hazardous sound levels (usually considered to be  $\geq 85$  dBA), or by one-time high-intensity impulsive noise exposure. The effects on hearing are irreversible. However, experts agree that occupational NIHL can be reduced—even eliminated—when proper safety measures are implemented.

To help mitigate the risk of NIHL, employers must implement a comprehensive Hearing Loss Prevention Program (HLPP) whenever daily noise exposure levels average 85 dBA or more. A HLPP includes noise monitoring, annual audiometric screenings, training, proper recordkeeping and the provision of a variety of Hearing Protection Devices (HPDs).

### What are the Best Hearing Protection Devices?

There are many types of HPDs available for workers, and the appropriate ones should be chosen based on the noise level, jobsite and the individual. From earplugs to earmuffs, the options are abundant. Some of the factors to consider when selecting hearing protection include attenuation level, proper fit, hygiene, comfort, communication needs and compatibility with other PPE. Most importantly, workers must always be able to wear the protection when exposed to excessive noise levels.

To determine which HPDs may be appropriate for your worksite, you need to first accurately measure the noise levels present. This will help determine the level of attenuation required to adhere to current regulations. Most regions require that HPDs carry a label with an attenuation rating that indicates the level of protection workers can expect to achieve when the device is properly fit. The attenuation rating should be sufficient to reduce noise exposure to meet regional regulations and workplace policies. Most regions require that most industrial workers limit noise exposure to 85 dBA averaged over an 8-hour workday. For example, if noise levels in your workplace average 100 dBA, the attenuation rating should be at least 15 dB. However, the attenuation rating is only an estimate. The only way to know if a worker is getting enough protection is fit testing.

While we want the HPD to reduce harmful noise, we don't want to eliminate all sound. Over-protection occurs when an HPD has more attenuation than is necessary for the situation. A worker who can't hear a warning signal or communicate with co-workers is more likely to make mistakes, be injured or feel isolated on the job. In many workplaces, communication is vital to both safety and productivity, so workers can benefit from HPDs that allow communication and audibility of their surroundings.

**MJS Safety provides fit testing for hearing protection devices.**

### The Importance of Personalization

A defining aspect of a successful Hearing Loss Prevention Program is personalization. We know every worker is unique, and there is no one-size-fits-all when it comes to hearing protection. HPD selection should be tailored to the needs of the user, and fit testing should be used to verify that the attenuation is appropriate for the work environment. One-on-one fit testing is integral to measuring—rather than guessing—the level of attenuation achieved by an individual's HPD. In addition, most employers want to ensure their approach to Hearing Loss Prevention is preserving their workers' hearing on a long-term basis. Comfort and fit, coupled with a range of styles and sizes, aren't the only things that are important anymore. Safety managers want data that can help them track patterns and identify problems early on so that hazardous situations can be remedied before negative consequences occur.

Technology is helping to take HPD personalization to the next level. Web and mobile app data services can wirelessly link to hearing protection, giving safety professionals actionable insights into workers' noise exposure. This worker-specific data allows for personalization of Hearing Loss Prevention solutions and allows employers to monitor workers' noise exposure as it is occurring. This combination of smart or "connected" PPE and big data can be the next evolutionary step in occupational safety and health. Technologies such as automatic fit-testing and real-time noise monitoring may also help speed up the onboarding and training of workers while enhancing their protection. Furthermore, it will be possible to monitor personal sound exposure over time to avoid health problems caused by cumulative exposure.

With the number of remote workers increasing, it is more important to have a hearing solution that not only protects workers, but also gives safety managers in the command center the information they need. The data generated can help safety managers improve their companies' Hearing Loss Prevention Programs and develop a personalized approach to worker safety. Safety managers can gain real-time insights into noise exposure, monitor patterns, alert workers to daily noise limits and reduce time-consuming administrative and reporting procedures, all while keeping a safe distance.

### Conclusion

The best hearing protector is the one that is worn comfortably and correctly 100 percent of the time, and we cannot forget the important role that personalization plays. Workers should be involved in the fitting process to help find the right HPD and take an active role in protecting their own hearing.

Enabling the proper selection of earplugs or earmuffs, offering various styles and sizes, monitoring sound exposures and protection levels regularly and training workers individually on how to achieve a personal fit for the greatest attenuation all contribute to a successful Hearing Conservation Program that will keep workers safe from harmful noise.

While the hearing protection devices you provide may deliver high attenuation ratings and quality, noncompliance, improper fit and a reliance on lagging indicators all play a role in the ongoing struggle to adequately protect workers' invaluable sense of hearing. By focusing on leading indicators and taking a personal approach to Hearing Loss Prevention, we can help reduce the staggering number of workers affected by NIHL. That is a sound solution that workers, their families, friends and employers can all agree on.



# How to Improve Your Visibility on a Construction Site

In your life outside work, you might be as visible or as low-key as you want. But on a construction site, where [struck-by accidents](#) are a constant concern, there's only one way to operate safely: as visibly as possible. Visibility is so important because, on a construction site, the visual landscape tends to be crowded and full of information. People going back and forth, machinery being operated, piles of materials and safety signs — between all of these, it can be tough for a heavy equipment operator to see that a worker is there before it's too late.

And that doesn't even account for the many workers in highway construction zones who constantly work around vehicle traffic. How can construction workers make sure they're always working at the maximum level of visibility? We'll talk about hi-vis clothing, safety around vehicles and more key elements of construction site visibility.



## 1. Wear the required level of high visibility gear.

First and foremost, you should make sure that you're as easy to visually identify as possible. The easiest way to do this is by wearing the right high visibility gear. Start by reading up on the [ANSI 107 standard](#) and find out if you're required to wear **hi vis gear** with a certain **ANSI rating**. There are tons of different types of hi vis gear, including construction vests, jackets, pants, and more. Most contracting companies will specify a required level of hi vis workwear for each job site, and some may even pay for their workers' gear. Whatever type it is, and whoever is paying for it, make sure that your visibility apparel is squared away before you set foot on the job site.

## 2. Add extra high visibility accessories to your workwear outfit.

The more high-visibility pieces on your outfit, the more you'll stand out in the visual field. Adding extras like hats and gloves can make a real difference in how easy it is for an equipment operator to see you in time to avoid an accident. Some of these accessories, like hard hats, might be required by your job site safety rules. Others, like a hi-vis beanie on a cold day, might simply be common sense. Choose hi-vis gear that's compatible with the rest of your outfit — like a hi-vis balaclava that fits over your hard hat. It could make all the difference in whether a vehicle operator can see you or not.

## 3. Know vehicles' blind spots and stay clear of them.

Every large vehicle will have blind spots where the operator's vision can't reach. The exact [location of the blind spot](#) will vary between vehicles but, typically, a good rule is that if you can't see the vehicle operator, they can't see you. Stay out of these blind spots or alert the vehicle operator if you have to enter them.

Sometimes, it might be your job to give a large vehicle hand signals to help the vehicle operator back up or perform other operations. Vehicle signaling requires a definite knowledge of where the vehicle's blind spot is, and you need to be extremely careful not to accidentally step into it as you help direct the vehicle.

## 4. Use easily visible motions when giving a vehicle hand signals.

As we just mentioned, a worker might sometimes need to give hand signals to a vehicle operator to help them back up the vehicle or complete another tricky task. When you're doing this, there are a couple of crucial safety precautions you should follow.

First, know the correct hand signals to use for the job you're performing so that you don't accidentally give the operator the wrong instructions. Second, make sure your movements are large and exaggerated when you're doing it. Don't go so over the top that you distort the motion of the signal, but prioritize being seen and understood. Finally, again, make sure your hi-vis gear is rated for the position you're working in.

## 5. Use the buddy system and/or lone worker devices to make sure you're never off the radar.

Working with others means there's always someone there to help in an emergency, but workers can have difficulty accessing help if an accident happens while they're working in an isolated part of the site. The first technique to prevent this, of course, is to work with a buddy instead of working alone.

In circumstances where you don't have a buddy, try to make sure you have a lone worker device or app to keep others informed on your safety status. These tools use a variety of methods to alert other workers if someone has an accident, such as scheduled check-ins or panic buttons. On job sites where you'll regularly be working alone, your management should be happy to provide lone worker devices for your safety.

## 6. Use extra caution when working in low-light conditions.

Working in low light presents many additional dangers for construction workers. Sight distance will be considerably shorter, and the glare of headlights can momentarily obscure things until it's too late. Remember that low light doesn't just mean night work; inclement weather such as rain or snow can also significantly reduce visibility distance.

Any job site that involves work in low light conditions should have a [well-defined safety plan](#) for addressing potential issues. Hi-vis clothing should be a given, but other solutions such as floodlights and lighted signs may also have a role to play. Managers should be using all of the means at their disposal to make low-light work safer.

Safety always needs to be the number one priority on the job, and visibility is one of the cornerstones of job site safety. Follow these tips and model them for others — you might be surprised at the value of a good role model for the safety culture on a job site.

# Understand Standards to Manage Safety in Confined Spaces

In construction and industry, some **potential hazards** visibly **manifest**, such as the **risk of falls** from heights. Others are more **hidden**. A **confined space** may not look **dangerous**, but workers **perish** each year because someone **assumed** the air inside was **safe** to breathe when **testing** would have **revealed** that it **wasn't**.

In 2017, **166 workers** died in incidents involving **confined spaces**, an increase of **15 percent** from the **previous year**, according to the **Bureau of Labor Statistics**.

The **real tragedy** is that such **fatalities** are potentially **preventable** by understanding and following **OSHA requirements** for entering **confined spaces**. Safety **directors** need to help **inform workers** which of the two **confined space standards** to follow and **educate workers** on the **steps** to take to help **maintain compliance**.

## A look at two standards: General Industry and Construction

**OSHA** introduced the **confined space standard** for **general industry** (1910.146) first. It was **intended** for static **environments**, not agriculture, **construction** or shipyard work. In 2015, **OSHA** introduced the **Confined Spaces in Construction** standard (1926.1203) to **guard against** the unique hazards of **confined space operations** in **dynamic environments**.

The **new standard** caused some **confusion**, and **enforcement** was deferred to **2016**. Part of the **confusion** stemmed from the many **references** to **home construction** in a related **FAQ**, which led some **people in industry** to think the **standard** did not **apply** to **construction activities** in plants. It does. It also **applies** to companies that are **repairing** an **existing facility** or **replacing** structures and their **components**, or performing a large, **complex maintenance** project. Maintenance **work** that **does not involve** new equipment or **structures** is usually **covered** under the **General Industry standard**.

The **Confined Spaces in Construction** standard **doesn't apply** to **excavations**, which are regulated by **§1926 subpart P—Excavations**, except when workers have to **enter a confined space** (*such as a pipe*) within the **excavation**. In that case, instead of following the **Excavation standard** when measuring the **atmosphere** for levels of **oxygen** and **flammable gasses**, the contractor **must meet** the more **stringent atmospheric thresholds**, along with the other **requirements** of the **Confined Spaces in Construction** standard.

This article **should not** be a **substitute** for advice, **instruction** or **supervision** with regard to your **specific job**. Consulting with **shoring** and **excavation experts** regarding your **specific circumstances** to ensure compliance with **OSHA**, and any other **applicable rules** or regulations is **always recommended**.

## Additional areas of confusion

Companies often **fail to follow** two other **provisions** of the **new standard**. One is the **competent person** requirement.

The **standard requires** the presence of a **competent person** on site if a **confined space** will be entered. **Many employers** make the **mistake** of thinking they can **tap** any **veteran employee** for the role, but **specialized knowledge** is **necessary**, which requires **formal training**. The **competent person** **must be able** to identify **existing** and **predictable hazards** in a **confined space** and the **area** around it, be **knowledgeable** about **appropriate testing**, and be able to **conduct initial testing** as necessary. They need to know the **maximum levels** for each **type of gas**. In addition, they **must have** the authority to take **prompt corrective action** to eliminate any **hazards** that are **found**.



The other **often-overlooked provision** is the **top-down reporting requirement** in **Permit Required Confined Spaces**. The

**employer** that owns or **manages** the **property** where the **construction work** is taking place is **required** to **share** any **information** it has about the **hazards** in the **confined space**

with the **general contractor**, and the **general contractor** must **pass** this information **down** to any **subcontractors** doing **work** in the space. This **requirement** ensures that **those who enter** the space know the **hazards** they may **face** and can **prepare** for them. When the **entrants** have **exited** the space, the **findings** must be **reported back** up to the **owner** so that any **new issues** about the **space** may be documented for the **next entry**.

## The cost of noncompliance

Companies that **fail to comply** with the **appropriate standard** could be **subject** to citations and **finest**, which can **impact** their reputations, their **insurance premiums**, and their **bottom line**. Of course, the **real price** to pay is the **potential loss** of life.

Safety **directors** should **understand** both **standards** and what **they require**. These **safety professionals** should also **familiarize company** executives with both **confined space standards**, and when each applies, so **executives** are **better able** to be **active partners** in **worksite safety**. Additionally, **safety directors** should ensure that all **field personnel** assigned the **role of competent person** receive the **training** they need in **order to live up** to the **title**.

**Contractors** doing things like **opening a manhole** on a **worksite** and using their **noses** to **evaluate the air**, is **not effective**. In fact, **simply opening** the **entrance cover** to a **confined space** may be **dangerous** if there's a **chance** a **hazard gas** could escape (*in which case, workers may need to insert a measuring device before opening the cover*).

**Fatalities don't happen when you expect them, they happen when you don't.**

**THE BOTTOM LINE: Rather than assume an atmosphere is harmless, assume it isn't.**

**► Testing is the only way to know for sure. ◀**

Upcoming dates to remember.....



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

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

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

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

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

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

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

## Brake Safety Week dates announced...planned for late August

**Commercial Vehicle Safety Alliance** (**CVSA**) has scheduled its annual **Brake Safety Week** for Aug. 22-28.

During **Brake Safety Week**, commercial motor vehicle inspectors conduct inspections and remove from service trucks found to have brake-related out-of-service violations. Prior to the event, **CVSA** encourages motor carriers to educate drivers and maintenance service providers on the importance of brake system safety.

Throughout the week-long campaign, inspectors will conduct [North American Standard Inspections](#) of commercial motor vehicles, focusing on the vehicle's brake systems and components. In addition, inspectors will compile data on brake hoses/tubing – the focus area for this year's **Brake Safety Week**.

Brake system and brake adjustment violations accounted for more vehicle violations than any other vehicle violation category, accounting for 38.6% of all vehicle out-of-service conditions, during 2020's three-day **International Roadcheck** inspection and enforcement initiative. Brake-related violations accounted for eight out of the top 20 vehicle violations in 2020, according to **FMCSA's** Motor Carrier Management Information System.

"Brake system" was the third most cited vehicle-related factor in fatal commercial motor vehicle and passenger vehicle crashes, according to the **Federal Motor Carrier Safety Administration's** (**FMCSA**) latest "Large Truck and Bus Crash Facts" report.

During last year's **Brake Safety Week**, 12% of the 43,565 commercial motor vehicles inspected were placed out of service for brake-related violations.

# Specific Sleep Apnea Screening Criteria Cut in Latest Draft Medical Examiner Handbook



The latest **draft handbook** for **certified medical examiners** no longer contains **previously proposed details** on screening and **treating sleep apnea** that were part of a **prior draft**. The withdrawal of those **detailed recommendations** alarmed some **members** of the **Federal Motor Carrier Safety Administration's Medical Review Board**, which met May 20.

"These **medical examiners** would be in a **terrible position** if we didn't arm them" with the **detailed tools needed** to do their job, said board member Dr. Albert Osbahr. He is **medical director** for **occupational health services** at Catawba Valley Medical Center in North Carolina. "**Industry doesn't like it**, but they're not the ones **doing the exam**. It's myself and **colleagues** who are on the **firing line**."

During the last, **April 2020 meeting** of the **MRB** on its **medical certification program**, a **draft handbook** emerged online that the board was **discussing**. The handbook **included details** on how to screen, test, **treat and monitor drivers** with regard to **sleep apnea**. It included the details of **recommendations drafted** in 2016 by the **MRB** in part with the **Motor Carrier Safety Advisory Committee** of industry, **advocates**, labor and **enforcement representatives**.

The handbook the **review panel of doctors** is considering in this recent meeting, however, **does not include** those detailed **recommendations**, following **Overdrive reporting last year** that showed evidence of **some medical examiners** using the **new draft handbook** as if it were a **final, printed update**.

The current, **long-approved handbook** actually contains even **less information** than the **draft handbook** considered in the **MRB** meeting. That latest **draft limits apnea information** to a list of **risk factors** and other details about the **condition**. It includes this emphasis **regarding obstructive sleep apnea**:

*The FMCSRs do not include requirements for MEs to screen CMV drivers for OSA, or provide criteria [on or about] whether to refer a driver for OSA testing, diagnostic testing methods, treatment methods, or criteria by which to assess compliance for obstructive sleep apnea treatment.*

**Board member** Michael Kelley, **senior medical director** of ambulatory services with OhioHealth Neighborhood Care, which operates a **small network** of **sleep centers** among other services, worried the **approach taken** would result in a **turn away from** the emphasis on **sleep apnea in medical certification** that is common among **examiners today**. Kelley and other **board members** recognized their **hands were tied** to an extent, given the **close attention** the industry and **Congress has put** on the need for **full regulatory rulemaking** to address apnea substantively.

Kelley remained concerned that a "**political process** has had so **much influence** on a **medical process**." He suspects that after the update, "**it will be very rare** for drivers **here on out** to be tested and **treated for sleep apnea** unless they **truly want to be**."

The **medical examiner handbook** doesn't exist in a vacuum. An **explosion in apnea testing and treatment** among **commercial drivers** has occurred over the **last decade** with no formal **regulatory guidelines** driving it.

The **paragraph highlighted** as **problematic** by Kelley and others was not new, **just new to the handbook**, though consistent with **past FMCSA statements**, as **FMCSA** Director for Policy Larry Minor **pointed out**. It had been part of the **sleep apnea "bulletin"** that the **FMCSA** put out" to **medical examiners** in early 2015, Minor said. That **statement** came after **pressure from Congress** and industry on the agency **amid an explosion of apnea screening in medical exams**, and confusion around what was **required** and **what wasn't** among **drivers and examiners**.

Still, most **MRB members** expressed disappointment with the **drawback** in detail from the **draft circulated last year**, favoring at **least a referential link** to the panel's **past recommendations**.

**Board chair** Dr. Gina Pervall, also of the Maryland Department of Transportation's Medical Advisory Board, said that the **2016 recommendations** came out of **not only the MRB** but included at least **some industry involvement** via the **Motor Carrier Safety Advisory Committee**. "We are **providing education** throughout this **document** and we should **provide education** here," Pervall said. "I don't understand **why we can't follow** it with the **work that we did**. A lot of our **recommendations** were in **conjunction with MCSAC** – we **came up with this together**. We need to **include more** on evaluation, **treatment** and compliance with **treatment**."

"It seems **almost criminal** it's **not in here**," said Brian Morris, the **corporate director** of medical surveillance for OccMed Consulting & Injury Care.

The **2016 recommended guidelines** were drafted when **FMCSA** was considering a **rulemaking (later abandoned)** around the **condition**. Among other things, those recommendations **would require any driver** with a **body mass index measurement** of 40 or **higher** to receive a **conditional certification** pending results of **diagnostic testing** for sleep apnea. **Other criteria specify** a variety of **screens for drivers** with a **body mass index** of 33 or **higher**. The wide net the **screens would cast**, **Overdrive** research **estimated** at the time, might have **screened between 25% and 38%** of truckers then **not being treated** for apnea.

Minor emphasized it was **likely "we will reference** the work from **2016-'17"** with at least a **link in the handbook**, acknowledging "**we want to watch out** that we're not going **down a slippery slope**" with **obstructive sleep apnea**."

## Speed Limiter Legislation Reintroduced in Congress

A bill most recently introduced in 2019 that would mandate speed limiters on all trucks manufactured after 1992 has been reintroduced in the U.S. House of Representatives.

Rep. Lucy McBath (*D-Georgia*) and Rep. John Katko (*R-New York*) introduced the *Cullum Owings Large Truck Safe Operating Speed Act* on May 25.

The bill, if made law, would require all new commercial motor vehicles to be equipped with speed limiters, require existing speed-limiting technologies already installed in commercial motor vehicles manufactured after 1992 to be used while in operation, and require that the maximum safe operating speed of commercial motor vehicles not exceed 65 miles per hour, or 70 miles per hour with certain safety technologies, such as an adaptive cruise control system and an automatic emergency braking system.

The bill is named for 22-year-old Atlanta resident Cullum Owings, who was killed in a car-truck collision in 2002 while returning to college. The legislation was long championed by former Georgia Sen. Johnny Isakson and is endorsed by the Truckload Carriers Association, the Trucking Alliance, AAA, the Institute for Safer Trucking, Road Safe America (*founded by Cullum Owings' father*) and the Safe Operating Speed Alliance.

“The safety and security of our families, our friends, and our loved ones is always of the utmost priority,” McBath said. “The Owings family has done so much to protect other children like Cullum, and I want to thank them for all they have done. No family in America should ever have to experience the same pain of losing a loved one so needlessly. This is an important, bipartisan step to make our roadways safer, protect drivers, and stop these heartbreaking crashes from happening.”

## Driver Vision Qualifications, Diabetes Discussed at Medical Review Board Meeting

FMCSA's Medical Review Board evaluated the vision standard for truck drivers at its meeting which was held May 19-20. The virtual meeting was open to the public.



According to an agenda for the meeting published in the *Federal Register*, the MRB was slated to evaluate comments and the vision assessment form from a proposed rulemaking from January.

The January proposal, if finalized, would allow drivers who cannot meet either the current distant visual acuity or field of vision standard, or both, in one eye to be physically qualified to operate a commercial vehicle. Currently, these drivers are prohibited from operating in interstate commerce without an exemption from FMCSA.

The board was also tasked with conducting a review of the medical assessment form for CMV drivers with non-insulin-dependent diabetes mellitus and finalize the recommendations from the MRB's April 2020 meeting on updates to the Medical Examiner Handbook.

### Truckers Crash on Ice to Avoid Moose ... *was this accident preventable?*

Truck driver John Doe was traveling northbound on a desolate, pitch-black and heavily wooded stretch of two-lane highway in Saskatchewan, Canada.

A persistent but gentle rain had dampened the blacktop for the last 50 miles. Now, at 3 a.m., it was a near-freezing drizzle.

The road had previously been salted and did not seem to be slippery. Even so, John Doe lightly backed off the throttle and cautiously piloted his tractor and double trailers.

Suddenly, the headlights of an oncoming straight truck cut through the night. Doe dimmed his high beams and a large moose suddenly appeared in the center of his lane.

Doe attempted an avoidance maneuver, without anti-lock brakes, and panicked when he realized he was on black ice.

The truck and lead trailer slid across the opposing lane of traffic and entered a ditch. The rear trailer was left straddling the southbound lane. Meanwhile, an equally out-of-control straight truck clipped Doe's stationary trailer before plowing into a ditch along the northbound lane.

#### Was this accident preventable or not?

The National Safety Council ruled the accident was preventable. While the moose was surely to blame, it was also obvious that Doe had been traveling too fast for conditions.



## Trucking Orgs Unite, Call Proposed Truck Mileage Tax 'Shortsighted, Inequitable, Discriminatory'

Tuesday, May 25<sup>th</sup> the American Trucking Associations (ATA) and OOIDA penned a joint letter to Finance Committee Chairman Ron Wyden.



During the Senate Finance Committee's recent hearing, Senator Cornyn (R-TX) asked the Committee to consider a truck-only **Vehicle Miles Traveled (VMT)** tax as means of financial support for a comprehensive infrastructure package.

The request marked at least the second time the "Cornyn Tax" – as it has come to be known – was floated by the Lone Star State lawmaker, having previously floated the idea in 2019 to support a five-year highway bill. In theory, the tax would require motor carriers to pay 25-cents for every mile driven. The mileage would be tracked via government-mandated devices that report the data back to the IRS.

The idea was immediately lambasted by trucking stakeholders, including Texas Trucking Association President and CEO John D. Esparza.

The American Trucking Associations (ATA) and Owner-Operator Independent Drivers Association (OOIDA) penned a joint letter to Finance Committee Chairman Ron Wyden and Ranking Member Mike Crapo, expressing their collective and vehement opposition to any truck-only funding scheme that singles out truckers for the purposes of filling the nation's infrastructure funding gap."

"Placing a disproportionate burden on the backs of truckers to avoid Highway Trust Fund insolvency is shortsighted, inequitable, discriminatory against the industry, and deeply concerning to the millions of essential workers in trucking who have kept our nation fed, clothed, and with access to medicine throughout the COVID-19 pandemic," read the letter co-signed by OOIDA President and CEO Todd Spencer and ATA President and CEO Chris Spear.

The two agencies, which represent a combined nearly 200,000 industry stakeholders, noted that should the Committee pursue the "Cornyn Tax" proposal, "know that it will encounter an intractable wall of opposition from our industry and from the many economic sectors which we serve. Doing so will not only alienate some of the strongest champions and natural allies of user-funded infrastructure investment, but it will also wreck the possibility of achieving the broad stakeholder support needed to advance the legislative process."

Both ATA and OOIDA took particular exception to Cornyn's notion that passenger cars "subsidize" road use by heavy trucks, and that implementing a VMT would level the playing field.

"While trucks account for only four percent of vehicles on the road and nine percent of all vehicle miles traveled nationally, we currently pay nearly half the entire Highway Trust Fund federal user-fee tab," the latter read. "A typical 5-axle truck pays \$4,454 in annual federal diesel and heavy-vehicle use taxes alone, whereas a car pays \$93 in annual federal gas taxes on average. In other words, trucks already pay 48 times more in federal highway user fees than do cars – on top of the other roadway taxes, business taxes, and income taxes that motor carriers pay."

A report compiled by the American Transportation Research Institute found that costs associated with implementing a VMT tax could far exceed any revenue gains. ATRI found that replacing the fuel tax with a VMT tax, which would be assessed on 272 million private vehicles, could result in collection costs of more than \$20 billion annually – about 300 times higher than the federal fuel tax. Hardware costs alone (mostly attributable to providing motorists with a GPS-enabled device) could have an initial price tag of \$13.6 billion and require ongoing replacement. Telecommunications costs would be approximately \$13 billion annually, and account administration would be an additional \$4.3 billion each year, ATRI estimated.

ATA and OOIDA also pointed out that Cornyn's idea that mileage could be tracked via onboard device likely isn't even legal.

"The concept of using electronic logging devices (ELD) to track and report truck miles traveled, as some have suggested, is untenable, as federal law prohibits government agencies from using ELDs for any purpose other than Hours of Service compliance," the agencies wrote. "Additionally, many erroneously assume that all trucks have ELDs, when the reality is that only 28% of commercial motor vehicles are legally required to be equipped with the device."

The letter closes urging lawmakers to "consider the impact that a truck-only VMT would have on the members of our industry, our supply chain, and the American consumer," noting that trucking industry stakeholders have "often said that we're willing to pay more to ensure the nation's roads and bridges have the funding certainty they need to carry our economy forward, but segregating commercial vehicles from all other road users with a new, punitive tax system represents a red line that we will not cross."

May 26, 2021

## FMCSA Extends COVID-Related Waivers Through August

The **Federal Motor Carrier Safety Administration** announced it will extend its **COVID-19 waivers** – including the **hours of service waiver** and the **CDL, CLP and medical card validity extensions** – through **Aug. 31**. The **current waivers**, issued in **February**, were set to **expire May 31**.

This **hours-of-service extension** includes the same **regulatory relief** for **motor carriers and drivers** providing **direct assistance** in support of **relief efforts** related to **COVID-19**, as included in the **Feb. 17 declaration**.

The waiver **only applies** to drivers **hauling the following**:

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

**FMCSA** says it **plans to review** the **status** of this and other **emergency regulatory relief** — including **CDL, CLP and medical card validity extensions** — on **July 1**, and may **modify** or end the **waivers**.

"It is **FMCSA's** intention to **wind down** the **exemptions granted** under this **Emergency Declaration** and related **COVID-19 regulatory relief measures** to the **extent possible**," the agency says.

May 05, 2021

## Labor Dept. Officially Withdraws Rule to Define Independent Contractor Within FLSA

The **Department of Labor** is **officially withdrawing** a late-Trump-era **rulemaking** that would have **clarified** the definition of **what it means** to be an **independent contractor** within the **Fair Labor Standards Act**. Because the rule **never took effect**, owner-operators will **see no changes** as a result of the **rule's withdrawal**.

DOL **published** the **final rule** on **Jan. 7**, shortly before the end of **Trump's presidency**. Just days **prior to** the rule's **publication**, the incoming **Biden administration** specifically **mentioned** the **independent contractor rule** as one of Trump's "**midnight regulations**" that would be **halted**.

The **independent contractor rule** would have used **five economic-reality factors** to make **determinations** as to whether a **worker** is an **employee** or an **independent contractor**. Two of those **factors** – the **nature and degree** of the worker's **control over** the work and the **worker's opportunity** for profit or **loss** – would have been the **two "core" factors** for determining a **worker's classification** and carried **greater weight** than the other **three factors**.

The **other factors** included the **amount of skill required** for the work; the **degree of permanence** of the working **relationship between** the worker and the **potential employer**; and whether the **work** is part of an **integrated unit of production**.

The **Owner-Operator Independent Drivers Association** expressed **disappointment** in the **withdrawal**, which the group says "**would have provided owner-operators additional certainty** about their **worker classification status**." **OOIDA adds** that it believes **under the rule**, owner-operators could have **generally continued** working under their **existing arrangements** with carriers without **fear of being reclassified as employees**.

"The department's **final rule**, for the **most part**, would have helped **provide new certainty** and clarity to **owner-operators**," said Lewie Pugh, executive vice president. "While **there were** certainly some **provisions** that needed to be **fixed**, this could have **been done** without the **wholesale withdrawal** of the rule."

DOL says it received more than **1,000 comments** on its **proposal** to withdraw the **independent contractor rule** both in support of and **opposition to** the **rule's withdrawal**. Those who **generally supported** the rule's withdrawal **felt** that it would have "**facilitated the exploitation** of workers reclassified or **misclassified** as **independent contractors** as a **consequence** of the rule."

Those **opposed** to withdrawing the **rule**, which **DOL says included** a number of **people who identified themselves** as current or **former independent contractors**, felt the rule would have **provided** "a clearer and **preferable analysis** for determining **employee or independent contractor status**."

# Best Practices for Controlling CSA Maintenance Violations

No fleet likes to be **dinged** for a **CSA** maintenance violation. If the violation is **severe enough** a truck can be taken **out of service**, fines can be levied, and a **bad CSA score** can **scare shippers** away.

The **good news** is there are **some steps** you can take to **help reduce** your number of **CSA violations**.

## Pre-trip inspections

The **pre-trip inspection** is the **first line of defense** against a **CSA** maintenance violation. Before **every trip**, drivers are **supposed** to complete a **mandated pre-trip inspection** of the **condition** of the truck they are about to **take out**.

According to the **Federal Motor Carrier Safety Administration**, “Before **operating** the vehicle, the **driver must** inspect the **vehicle** and be **satisfied** that it is in **safe operating condition**.” Sounds simple enough, but the **reality** is that not **all pre-trip inspections** are **equal**.

Some **drivers** put a **great deal** of effort into their **pre-trip inspections** and others just “**pencil whip**” them.

There are **things** you can do to **ensure** thorough **inspections** are completed. **Start by** making sure your **inspection form** follows an **orderly flow** that walks the **driver** all the way **around** the vehicle.

The **easier** you make it for them to **complete** the **inspection**, the more likely it is that it **will be done** properly. An **electronic inspection form** that a driver **can fill out** on a **cellphone** or **tablet** is another way to **ensure compliance**.

We all have **heard** the saying “**if you can’t measure it, you can’t improve it**.”

Make sure you are **tracking pre-trip inspection** compliance and noting **CSA violations** that should have been **found** during a **pre-trip inspection**, as well as **paying attention** to **roadside breakdowns** that occur **shortly after** a truck **leaves** the **yard**. Look for things that **should have been found** during the **pre-trip inspection**.

## Post-trip inspections

**FMCSA** also mandates **post-trip inspections** and driver **inspection reports** that must list “**any defect** or **deficiency** discovered by or **reported to** the driver which **would affect** the safety of **operation** of the **vehicle** or result in its **mechanical breakdown**.”

Items **included** in the inspection are **service brakes**, parking brake, **steering mechanism**, lighting, tires, **horn**, windshield wipers, **rear-view mirrors**, coupling devices, **wheels and rims** and emergency **equipment**. Again, it is **best** to make these **post-trip inspections** as easy to **complete** as **possible**.

## Make repairs found during driver inspections

The **FMCSA** guideline also says, “**If the last vehicle** inspection report **notes** any **deficiencies**, the driver **must review** and sign to **acknowledge** and certify that the **required repairs** were made.”

Make sure that if a **driver notes** something during the **pre-trip**, it gets **handled**. If drivers **don’t think** their complaints and **concerns** are being **taken seriously**, they are not **going** to put a **lot of effort** into their **inspections**.



## Preventive maintenance inspections

Make it **habit** that whenever a **truck** is in for **service**, a **technician** performs a **maintenance inspection** to look for things that **could cause** a **CSA violation** or that would make the vehicle **unsafe to operate**.

## Scheduled preventive maintenance service

Use **manufacturer’s recommended** maintenance service **intervals** as the starting point for your **scheduled maintenance service**. Based on your **fleet’s unique** operating **characteristics**, and using data from **roadside breakdown** and unscheduled **repairs**, alter the **frequency** of the **PM service**.

## Special maintenance programs

The **Commercial Vehicle Safety Alliance** holds **International Roadcheck**, a **72-hour annual event** in which **certified inspectors** conduct inspections of **commercial vehicles** and **drivers**. Although these **inspections** are **Standard Level 1** inspections, they usually have a **special area** of emphasis.

**CVSA** shares what **those areas** will be prior to the **event**. For the **2021 Roadcheck** the special **maintenance emphasis** was **lighting**. In the weeks **leading up** to enforcement **campaigns**, make sure to ask **drivers** and **technicians** to focus a **little extra attention** on the area **CVSA** is also focusing. **CVSA** conducts **Brake Safety Week** (Aug. 22-28) and **Operation Safe Driver** (July 11-17). These, too, are **opportunities** for you to **step up** your **maintenance inspections** to make sure your **trucks** are **road ready** and **safe**.

## Random inspections

Have a **driver’s supervisor** complete **random vehicle inspections** to ensure **drivers** are **noting defects** during their **pre- and post-trip inspections**. Also have service managers **perform random** inspections of **PM service** to ensure **all problems** were noted and **repaired**.

## Conduct root cause analysis

Look for the **root cause** of safety **issues** noted by **drivers**, **CSA violations**, or during **random checks**. Identify not only the **failure** but also what the **true cause** was, and what can **be done** to prevent **future occurrences**. Root causes can be **related** to the **vehicle spec** not designed for the **application**, **poor parts quality** or a **lack of/poor PM**, among other **things**.

## Conduct a review following a maintenance or repair issue

Spend time **identifying** every **opportunity** where you could have **identified** a problem **sooner** than you **actually did** and **beef up training** so **drivers** and **technicians** are better able to **find problems** sooner.

While it is **probably impossible** to avoid all **CSA violations**, if you **follow** the steps **outlined above** you should **significantly reduce** them and **know** that you are putting **safe vehicles** out on the **road**.

## New DOT Regulated CCF

The DOT recently made two key changes to the DOT regulated **Custody and Control Forms (CCF)**. If you’re still using paper forms, you must be aware of these changes. **Failure** to transition to the **new form** by the cutover date of **August 30** may result in tests being **rejected**. Read the changes [here](#).





## More important information for...

### Safe Confined Space Entry

**When Working in Chutes, Silos and Hoppers, Taking Special Precautions Can Save Your Life.**

An estimated 7% of the U.S. fatalities recorded by MSHA between 1995 and 2011 occurred in a confined space. To reduce that number, conveyor operators are wise to understand exactly how a confined space is defined, and to consider what they can do to prevent serious injuries.



Many factors can cause bulk materials to adhere to the sides of chutes, silos and hoppers – including humidity, moisture content, size/texture of the raw material or increased production volume – resulting in lost capacity or clogging.

Ongoing accumulation reduces flow and eventually stops production in order to address the issue, causing expensive downtime and requiring extra labor to clear the obstruction.

“Clearing extensive buildup often involves confined space entry, but the consequences of untrained staff entering a chute, silo or hopper can be disastrous, including physical injury, burial and asphyxiation,” said Martin Engineering Product Engineer, Daniel Marshall. “Without proper testing, ventilation and safety measures, entering vessels containing combustible dust could even result in a deadly explosion.”

#### What is Confined Space Entry?

The definition of “confined space” is an area not designed for continuous employee occupancy and large enough for an employee to enter and perform assigned work, but with limited or restricted means for entry or exit. “Permit-required confined space” means a confined space that has one or more of the following characteristics:

- The vessel contains, or has the potential of containing a hazardous atmosphere such as exposure to explosive dust, flammable gas, vapor or mist in excess of 10 % of its lower flammable limit (LFL). Atmospheric oxygen concentration below 19.5 % or above 23.5%.
- There is the potential for material to engulf, entrap or asphyxiate an entrant by inwardly converging walls or by a door which slopes downward and tapers to a smaller cross-section.
- Contains any other recognized serious safety or health hazards.

#### Entering a Confined Space

Working in confined spaces typically requires:

- Special personnel training.
- Safety harness and rigging.
- Extensive preparation.
- Added personnel for a “buddy system.”

“Systems designed to minimize permit-required confined spaces can provide a significant return on investment, and the best time to reduce the amount of confined-space entry for component maintenance and replacement is during the specification and design stages of a project,” Marshall continued. Many manufacturers offer systems and products that can reduce the need for confined space entry.

Examples would include:

- Modular chute designs with abrasion-resistant liners.
- Chutes that hinge open and lay down for liner replacement.
- Skirtboards with external liners.



- Belt cleaners that can be serviced without confined space entry.
- Flow aids such as air cannons and vibrators to reduce buildup.
- Modular air cleaners for specific locations rather than centralized dust collection.

#### Global Regulations, Standards and Best Practices

Rules regarding confined space entry vary greatly depending on the country, even down to the state, province or prefecture level. As always, regional and local codes should be identified and followed, but general rules can be drawn from regulations established in major industrial markets such as Australia/New Zealand, Canada and the United States.

Commonalities between governmental regulations provide employers with a measured approach to safety. These procedures include:

#### Prior to Starting the Job

- Review the permit and the job-specific work procedures.
- Gather and inspect all necessary PPE.
- Test and/or calibrate any safety gear, test instrumentation or communication tools.
- If a current Job Safety Analysis (JSA) or safety check list does not exist, perform a risk assessment.
- Hold a pre-job meeting making sure all workers are aware of the hazards and safe work practices.
- Conduct proper tests for toxins, vapor, dust levels, oxygen levels and material-specific hazards.
- Perform as much cleaning and maintenance as possible outside of the vessel.
- Post completed confined space entry permit outside of the vessel.
- Isolate contaminants and moving parts to prevent the accidental introduction of materials.
- Proper lock-out/tag-out/block-out/test-out procedures must be completed and documented prior to entry.

#### During Procedure

- Perform maintenance/cleaning using non-toxic substances such as water and avoid using heat/fire in the confined space. Never use oxygen to purge a confined space, as this can create a fire and explosion hazard.
- Provide ventilation if possible.
- Select personal protective/safety equipment such as safety helmet, gloves, hearing protectors, safety harness and lifeline and breathing apparatus.
- Assign a trained observer to monitor the procedure and internal conditions, and provide escape assistance if needed.
- Practice fast evacuation of the confined space.



#### Closing Thoughts: Covering Your Access

“Over time, well-designed access improves safety and saves money,” Marshall added. “Safe access that is carefully located and adequately sized will increase dependability and also reduce the downtime and associated labor required for maintenance.”

He advises that companies consider equipment designs which minimize the need for confined space entry, including improved access doors, vibrators, air cannons or silo cleaning services. “Conveyor systems that are properly outfitted with appropriate cleaning and material discharge equipment create a safer workplace, while experiencing longer life and less downtime,” he concluded.

## Are You Guilty of These Common Misconceptions About Bad Safety Habits?

What's that one worksite habit that really grinds your gears? Every safety pro has one pet peeve they hate to see but can't seem to eliminate.

Bad safety habits happen on every job site, but breaking those habits isn't as easy as slapping workers on the wrist or offering them rewards.

The truth of safety is this: worker behavior should never make or break your safety program. On the contrary, worker behavior usually reflects the strengths and weaknesses of the program. Unfortunately, it's usually easier to fall back on some common myths that explain those behaviors away.

What are the most common misconceptions about safety habits? You'll probably recognize at least one or two of them.



### Myth 1: safety habits are the bedrock of workplace safety

It's tempting to blame workers' unsafe habits for incidents, missed goals, and failures in the safety program. While you can't absolve workers of all blame, the truth is that individual habits play a far less important role in workplace safety than we realize.

When you see something dangerous and start to see red, you need to return to [the hierarchy of controls](#). Your first tactic should always be to eliminate hazards in the first place, and then use substitution, engineering controls, or administrative controls as appropriate.

By the time you reach worker behavior at the bottom of the hierarchy, the risk should be at the absolute minimum.

In other words, if you think worker behavior is dramatically impacting site safety, then there's a good chance you're missing something upstream.

Rather than slapping wrists for behavioral infractions, go back and look at your safety program and the parts relating to the behavioral issue. Look at the risk assessments, JHAs, and any other reports to identify hazards and use the hierarchy of controls to limit the damage "bad habits" can do.

### Myth 2: bad safety habits can be broken with incentivization

How do you help workers break bad habits? Some safety pros say that incentivization is a fast, easy way to get it done. In reality, even really good incentives won't break bad habits.

An incentive alone doesn't [fix the core problem](#). To break a habit, you need to carefully define the issue and then identify the triggers (or root cause).

For example: Your workers only wear their safety glasses when they're confident they're going to get busted by the safety team or management. Most of the time, safety glasses stay in lockers, pockets, or even get strewn around the work area. You want to fix it, so what do you do?

Incentives sound good, and you're under pressure. So, you offer workers \$5 for the local sandwich shop every time you see them in their safety glasses. All of a sudden, you see safety glasses everywhere; one worker thought he was funny and showed up wearing two pairs at once.

But are they wearing them when no one can see them? And will they keep wearing their PPE when you stop handing out free sandwiches?

Incentivization can promote positive behaviors, but it doesn't address the underlying cause nor does it drive learning and value changes.

For example: your team may not wear their safety glasses because the fit is poor or they don't understand why they need to wear them when they assess the risk to be relatively low. In this instance, all you did was give out money. You didn't change any behaviors or promote understanding.

Incentivization can play a role in your safety program, but it should never replace it. And when you do use incentives, make sure you deploy them evenly.

### Myth 3: bad safety habits are part of the shortcut mentality

One of the best ways to alienate workers is to accuse them of taking shortcuts. Sure, it happens, but you can't put all bad safety habits in that box. Human behavior doesn't happen in a vacuum. Habits are made in the environment, not the other way around.

The worker who uses poor ergonomic lifting techniques doesn't think to themselves, "I can't be bothered lifting this box the correct way."

It's vital that you work to identify the triggers of safety behaviors. Using root cause analysis can be helpful for some of the widespread behaviors you see around the site. Once you unpack the conditions behind the behavior, you can then point out the appropriate corrective action.

### Myth 4: bad safety habits are a sign you hired the wrong employee

You see a new hire engaging in a lot of minor and even a few egregious behaviors, and you might be tempted to think: "Maybe this employee just doesn't understand our culture."

The truth is that the employee may or may not be a good fit for your company. But the safety issue often goes much deeper than whether you made the right hiring choice.

Rather than assigning blame to the new hire, go back to see if there was a disconnect along the way. You might find:

- HR didn't reiterate your commitment to safety during the onboarding process.
- Your organization doesn't overtly communicate the value of safety.
- You run a training program that made too many assumptions about existing worker knowledge and didn't provide enough training for the worker to hit the ground running.

## Bust bad habit myths to change worker behavior

Watching workers break safety behavior rules is part of life as a safety pro. So, it's no surprise that everyone wants to know the secret to breaking bad habits. In reality, bad safety habits are usually about something much more than behavior. So, it's important to avoid assigning blame and calling it a day.

Instead, you need to remember that changing worker habits is far from the only thing you can do to improve safety. So, if you're seeing a rise in incidents, it's time to return to the drawing board and see what hazards you can mitigate or eliminate altogether. You might use the hierarchy of controls, go back to your training or onboarding program, run a root cause analysis, or revamp your incentivization program.

By busting the myths around bad habits, you'll not only help change worker behavior long-term, but you'll start down the path from being the safety cop to being a safety leader.