

New Logo & New Name ...

*BUT OUR CONTINUED ATTENTION TO GREAT SERVICE
AND BUILDING LASTING RELATIONSHIPS IS THE SAME*

With the passing of our founder, it has become necessary to make a few technical adjustments. Over the next few months **MJS Safety LLC** will be transitioning to a new company name –

MJS Legacy Safety Consulting Services LLC

All of the services provided to you through **MJS Safety LLC** will remain the same and be available to you through **MJS Legacy Safety Consulting Services LLC** with no interruption. We are committed to carrying on the legacy that Mike envisioned for both the company and our clients, and will continue to make ‘*caring for our client’s needs*’ our top priority.

The contact information for both Carrie Jordan and Jeremy Jordan will remain the same.

Please note a new shipping address as: 1026 N. 1st Street, Johnstown CO 80534.

There is no change to the mailing address as: P.O. Box 10, Johnstown CO 80534.

Our training facility and offices will not change: 1760 BROAD ST, UNIT H, MILLIKEN, CO 80543.

It has been our distinct pleasure to serve your business needs for the past 26 years under **MJS Safety**. We look forward to continuing a productive and successful business relationship with you under the **MJS Legacy Safety** brand for many years to come.

carriejordan@mjsafety.com — jeremyjordan@mjsafety.net

Continuing to feel ‘COVID weary’? It’s a topic we still need to think about often, staying informed about restrictions, being safe for our co-workers, our friends and our families. Until we can move on from thinking daily about COVID-19, we’ll do our best to provide you with as much helpful information as possible.

Here are Resource links that will provide the most current information and guidance for your workplace.

- [CDC – Centers for Disease Control](#) – Important info: [COVID-19 vaccine](#)
- [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.



COLORADO
Department of Revenue

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



▶ [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 June 2022. We are also able to offer the 1st aid/ CPR classes with an online blended learning option, and remote skills verification – as well as our In-House H2S Awareness Course. Ask about other distance learning opportunities for more information.

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

OSHA / CONSTRUCTION NEWS SUMMARY

▶ 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...](#)

▶ Drug Testing

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



▶ EMERGENCY TEMPORARY STANDARD

COVID-19 Vaccination and Testing ETS - **Important UPDATE to information in Dec newsletter** ... [read more...](#)

▶ more DOL / OSHA extensions

Rulemaking To Protect Indoor and Outdoor Workers from Heat Hazards [read more...](#)

DOL Extends Deadline - Nominations to Serve on Federal Advisory Council on Occupational Safety & Health [read more...](#)

▶ OSHA Form 300A ANNOUNCEMENT

March 2, 2022, is deadline for electronically reporting OSHA Form 300A data for calendar year 2021. [read more...](#)

▶ Appeals Court Overturns Stay of OSHA's COVID-19 Emergency Standard and It's Headed to the Supreme Court

The legal seesaw over OSHA's COVID-19 Emergency Temporary Standard tipped back toward enforcement of the vaccinate-or-test requirement for companies with more than 100 employers. [read more...](#)



▶ **Did You Know?** The fatal injury rate for all workers declined in 2020, but the rate for Hispanic or Latino workers rose. [read more...](#)

▶ OSHA Standard Resource

A new [Code of Federal Regulations website](#) provides easy access to a [complete list of OSHA standards](#). [read more...](#)

▶ What OSHA Training is Required Annually?

Heading into 2022, there is an issue that requires your full attention each and every year; identifying **OSHA standards** that require **mandatory annual refresher training** ... [read more...](#)

▶ Whistleblower Protection

US DOL orders Houston crane company to pay nearly \$24K to worker ... [read more...](#)

US DOL alleges global truck manufacturer fired worker concerned about coronavirus safety ... [read more...](#)

▶ OSHA SAFETY ADVISORY

Risks of Improper Storage of Hazardous Chemicals at Chemical Warehouses and Chemical Distribution Facilities [read more...](#)



▶ Safety and Health Information Bulletin SHIB 11-08-2021

Rotary Valve/Airlock and Lock-Out/Tag-Out Hazards: **Preventing Amputation Injuries** [read more...](#)



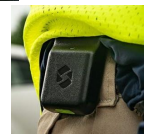
► How to Develop Safety Training Programs for Maintenance Workers

Organizations are mandated by law to establish workplace safety programs to guarantee a safe and healthy work environment. [read more...](#)



► How Data from Construction Wearables Can Benefit Your Construction Business

Smart, wearable technology on construction sites can increase productivity, prevent injury and keep workers aware of situational hazards and their health. [read more...](#)



TRANSPORTATION NEWS SUMMARY

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

► DRUG AND ALCOHOL Clearinghouse

Reporting Test Refusals to the Clearinghouse [read more...](#)

► Trucking Law: Can you refuse to drive in poor weather? Here are some common ?? ... Do I have the right to refuse to drive in dangerous road conditions? [read more...](#)



► CVSA Adopts Education Program Addressing Driver Fatigue

The CVSA is now home to the North American Fatigue Management Program, a comprehensive educational and training program aimed at preventing fatigue-related risks and crashes ... [read more...](#)

► Greater Split-Sleeper Flexibility, Infrastructure Investment, Clarified Independent Contractor Status: Trucking Groups' Recommendations to Improve Supply Chain [read more...](#)



MSHA NEWS SUMMARY

► The Mine Safety and Health Administration is in Transition Mode

Two words sum up where the Mine Safety and Health Administration (MSHA) is as 2021 comes to a close and mine operators prepare for 2022: *transition period*. [read more...](#)



MONTHLY SAFETY & HEALTH TIP NEWS SUMMARY

► First-Aid Supplies – maintaining a well stocked kit

OSHA requires employers to provide a safe workplace that is reasonably free of hazards. Still, accidents happen, so employers must also provide access to emergency medical care and appropriate first aid supplies. [read more...](#)



MJS Legacy Safety OFFERS DRUG & ALCOHOL TESTING

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

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

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

“Training Spotlight”

(there will be a different course featured monthly)

RESPIRATORY PROTECTION TRAINING & FIT TESTING

Employees utilizing respiratory protection in the workplace must be trained in proper use, care and selection of respiratory protection. Employees must also be medically evaluated and fit tested to ensure that tight-fitting face pieces create a good seal. We offer general respiratory protection training as well as medical evaluation and fit test services at our facility or yours. we can also assist in training your Program Administrator in their responsibilities.

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

SOURCES FOR THIS ISSUE INCLUDE: OSHA, FMCSA, ISHN, EPA, US DOL, MSHA, National Law Review, For Construction Pros.com, SHRM, Overdrive, CCJ, Congress.Gov, California Legislative Information, Atty Paul O. Taylor

Schedule of classes January 2022: • TRAINING CENTER - 1760 BROAD ST, UNIT H, MILLIKEN, CO 80543

- *PEC Safeland Basic Orientation: NEW 2021 SAFELAND: Jan 7, 29; 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 MEDICFIRST AID): In Person Classes: Jan 28; 8 – noon; This class is also available for blended learning (online) with remote or in-person skills assessment
*Hydrogen Sulfide Awareness [ANSI Z390 -2017 Course]: Jan 28; 12:30 – 4:30; This class available via Instructor Led video conference
*OSHA 30 HOUR - CONSTRUCTION - SPANISH - 4 day class: Jan 24, 25 & Feb 3, 4;
*Fall Protection Training (4 hour Awareness and 8 hour Competent Person available): Jan 17;
*Confined Space Entry Training Attendant, Supervisor, Competent Person & Entrant [NUCA Course]: Jan 18;
*Confined Space Rescuer - 2 day course: Jan 19; (Students must complete the Confined Space course to be eligible for the 2nd day Rescue Course)

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

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

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

▶ 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

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

Unable to attend a class?

MJS Legacy Safety offers multiple “ONLINE TRAINING COURSES” including OSHA Construction, General Industry, Environmental, Hazardous Waste Public Safety, DOT, Human Resource, and Storm Water & ISO or you can

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

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

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

OSHA's Recordkeeping Requirements During the COVID-19 Pandemic

OSHA 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](#).

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 Service 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!**

EMERGENCY TEMPORARY STANDARD

Important UPDATE to this information published in Dec newsletter – [see page 7 below](#) COVID-19 Vaccination and Testing ETS

On November 12, 2021, the U.S. Court of Appeals for the Fifth Circuit granted a [motion to stay OSHA's COVID-19 Vaccination and Testing Emergency Temporary Standard](#), published on November 5, 2021 (86 Fed. Reg. 61402) ("ETS"). The court ordered that OSHA "take no steps to implement or enforce" the ETS "until further court order." While OSHA remains confident in its authority to protect workers in emergencies, OSHA has suspended activities related to the implementation and enforcement of the ETS pending future developments in the litigation.

The ETS on Vaccination and Testing was officially filed in the Office of the Federal Register on November 4, 2021, and it became effective when it was published on November 5, 2021. Written comments on any aspect of the ETS must be submitted by December 6, 2021 in [Docket number OSHA-2021-0007](#). Written comments on the information collection determination as described in V.K. of the ETS preamble [2021-23643] must be submitted by January 4, 2022 in [Docket number OSHA-2021-0008](#).

ETS [Additional links](#) & [FAQ's](#)

Find information on the [COVID-19 Healthcare ETS](#) or on [Coronavirus Disease \(COVID-19\)](#).



more DOL / OSHA extensions

Rulemaking To Protect Indoor and Outdoor Workers from Heat Hazards

The U.S. Department of Labor's [Occupational Safety and Health Administration](#) is extending the period for submitting comments on the *Advance Notice of Proposed Rulemaking for Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings*. Comments on the ANPRM must now be submitted by Jan. 26, 2022.

The [30-day extension](#) provides stakeholders more time to review the ANPRM and collect information and data necessary for comment.

Currently, OSHA does not have a heat-specific standard to protect millions of workers in indoor and outdoor work settings from exposure to hazardous heat conditions. In recent months, OSHA has initiated several efforts to protect workers from [heat-related illnesses](#) and deaths while working in hazardously hot indoor and outdoor environments. In addition to pursuing a heat-specific workplace rule, OSHA instituted a [heat-related enforcement initiative](#) and plans to issue a National Emphasis Program for heat-related safety efforts in 2022.

The agency began the process of considering a heat-specific workplace rule to address heat-related illnesses when it published the [ANPRM](#) on Oct. 27, 2021.

Submit comments, identified by [Docket No. OSHA-2021-0009](#), electronically at the Federal e-Rulemaking Portal. The Federal e-Rulemaking Portal is the only way to submit comments on this ANPRM.

OSHA Form 300A ANNOUNCEMENT

March 2, 2022, is the deadline for electronically reporting your OSHA Form 300A data for calendar year 2021. Collection will begin January 2, 2022.

Remember, not all establishments need to submit their OSHA 300A Data. To review which establishments need to provide their data, [click here](#). [Read more including FAQ's ...](#)



DOL Extends Deadline for Nominations to Serve on Federal Advisory Council on Occupational Safety and Health

The U.S. Department of Labor has extended the deadline for submitting nominations to serve on the [Federal Advisory Council on Occupational Safety and Health](#). Nominations must now be submitted by Jan. 31, 2022.

Submit nominations electronically into [Docket No. OSHA-2021-0010](#) at the Federal eRulemaking Portal. Read the [Federal Register notice](#) for instructions.

Secretary of Labor Marty Walsh reauthorized the council's two-year charter on Oct. 1, 2021. [FACOSH](#) members advise the Secretary on how to reduce the number of injuries and illnesses in the federal workforce and encourage each federal executive branch department and agency to establish and maintain effective occupational safety and health programs.

December 20, 2021

Appeals Court Overturns Stay of OSHA's COVID-19 Emergency Standard and It's Headed to the Supreme Court

The 6th Circuit Court of Appeals last week dissolved the stay against enforcement of OSHA's vaccinate-or-test requirement for employers of more than 100, OSHA changed its deadlines and final appeals went to the High Court

The legal seesaw over the **Occupational Safety and Health Administration's COVID-19 Emergency Temporary Standard** tipped back toward enforcement of the **vaccinate-or-test** requirement for companies with more than 100 employers.

On December 17, the **Sixth Circuit Court of Appeals** dissolved a stay (an injunction issued by the 5th Circuit in November) of the **Occupational Safety and Health Administration's (OSHA) COVID-19 Vaccination and Testing Emergency Temporary Standard (ETS)**.

Shortly after, **OSHA** posted a **statement** with **new compliance dates** on its **website**:

"To account for any uncertainty created by the stay, OSHA is exercising enforcement discretion with respect to the compliance dates of the ETS. To provide employers with sufficient time to come into compliance, OSHA will not issue citations for noncompliance with any requirements of the ETS before January 10 and will not issue citations for noncompliance with the standard's testing requirements before February 9, so long as an employer is exercising reasonable, good faith efforts to come into compliance with the standard. OSHA will work closely with the regulated community to provide compliance assistance."

Covered employers must now comply with the provisions of the ETS by **January 10, 2022**. If an employer opts to permit employees to test in lieu of vaccination, then testing of unvaccinated employees must begin on or before **February 9, 2022**.

State attorneys general who oppose the ETS immediately filed emergency applications for an immediate stay with the Supreme Court.

Don't wait for final buzzer

In coverage on its website, the **Society for Human Resource Management** reports Emergency appeals are reviewed by the Supreme Court justice who is assigned to that circuit. Justice Brett Kavanaugh is assigned to the **6th Circuit**, and he may stay the ETS pending review of the entire Court. Or, given **OSHA's** decision to delay compliance dates, he could refer the applications to the full Court for a decision. Justice Kavanaugh could also take no action on the applications pending review of the full Court.

The **National Law Review** suggests that, "The Supreme Court will presumably be mindful of the resources necessary for employers to implement the ETS and will try to avoid a scenario

in which employers would take steps to implement the ETS only to have it invalidated later. Although it is always difficult to predict how quickly a ruling might come, the Supreme Court will most likely take action in advance of **January 10, 2022**, to give employers some certainty."



The **Society for Human Resource Management** says employment law attorneys warn businesses against waiting for the outcome of legal challenges to the ETS.

"There's just not enough time to get ready for the ETS if you don't start now," said Julie Vanneman, an attorney with Dentons in Pittsburgh.

Kristin White, an attorney with Fisher Phillips in Denver, recommended employers provide notices and start gathering employees' vaccination status now. "Then, they can hold off finalizing the plan and testing for a couple of weeks while they gather vaccine information and the litigation moves forward."

The ETS allows the 22 states with [OSHA-approved state plans](#) to develop their own workplace health and safety plans, as long as those plans are "at least as effective" as the federal program. Law firm Jackson Lewis noted that none of those 22 locations that cover private employers have taken steps to enact an ETS, but they have a limited window to do so if the Supreme Court does not block the rule.

Why the stay was overruled

A three-judge panel of the **Sixth Circuit** considered **OSHA's** motion to overturn the injunction, and each judge on the panel wrote a separate opinion. The **National Law Review** reports that Judge Jane Stranch authored the majority opinion in the 2-1 decision, which held that **OSHA** did not exceed its statutory authority in issuing the ETS because the **Occupational Safety and Health (OSH) Act** "requires **OSHA** to issue an emergency standard if necessary to protect workers from a 'grave danger' presented by 'exposure to substances or agents determined to be toxic or physically harmful or from new hazards.'" The majority concluded that regulating an "agent that causes bodily harm" – including a virus – is squarely within **OSHA's** authority.

The majority noted that **OSHA** has regulated infectious diseases, including protecting employees from exposure to HIV, hepatitis B, and hepatitis C through the **Bloodborne Pathogens Standard**, and that clear authority to regulate viruses includes regulating infectious diseases that are not unique to the workplace. Courts have upheld **OSHA's** authority to regulate hazards that co-exist in the workplace and in society but are at heightened risk in the workplace.

With regard to **COVID-19**, the majority wrote, "Congress expressly included funding for **OSHA** in the American Rescue Plan that is to be used 'to carry out COVID-19 related worker protection activities.'"

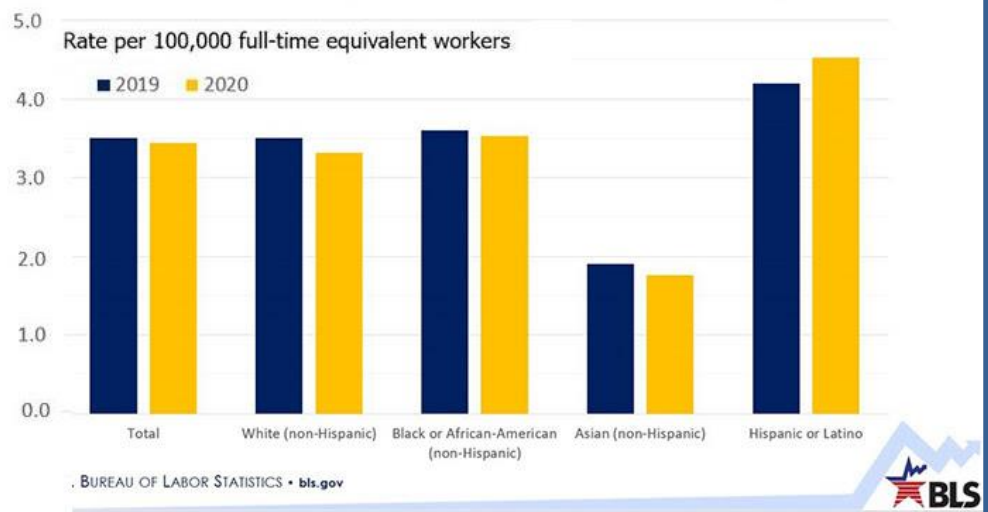
Did You Know?

The fatal injury rate for all workers declined in 2020, but the rate for Hispanic or Latino workers rose. It was the only race or ethnic group shown on the chart below to see an increase. To learn more about fatal occupation injuries, see "[Census of Fatal Occupational Injuries Summary, 2020](#)." CFOI reports fatal workplace injuries only; it does not report any illness related information, including COVID-19.

¿Sabías?

La tasa de lesiones mortales para todos los trabajadores disminuyó en 2020, pero la tasa de los trabajadores hispanos o latinos aumentó. Fue la única raza o grupo étnico que aparece en el gráfico siguiente que vio un aumento. Para saber más sobre las lesiones ocupacionales mortales, consulte el "[Resumen del Censo de lesiones ocupacionales mortales, 2020](#)." (en inglés) CFOI sólo informa de las lesiones mortales en el lugar de trabajo; no comunica ninguna información relacionada con las enfermedades, incluido el COVID-19.

Rate of Fatal Work Injuries by Race or Ethnic Origin, 2019-20



OSHA Standard Resource

A new [Code of Federal Regulations website](#) provides easy access to a [complete list of OSHA standards](#).



What OSHA Training is Required Annually?

Heading into 2022, there is an issue that requires your full attention each and every year; identifying [OSHA standards](#) that require mandatory annual refresher training for employees.

The [OSHA](#) training requirements listed below are only intended to provide users with a generic, non-exhaustive overview of the [OSHA](#) training requirements for specific standards-related topics. Click on this [link](#) to review training requirements specific to your industry.

Below is a list of Federal [OSHA](#) standards that specifically mandate annual [OSHA](#) refresher training:

Federal OSHA Standard	Annual Refresher Training Requirement
Occupational Noise Exposure - 1910.95(k)(2)	The training program shall be <u>repeated annually</u> for each employee included in the hearing conservation program. Information provided in the training program shall be updated to be consistent with changes in protective equipment and work processes.
Hazardous Waste Operations and Emergency Response - 1910.120(e)(8) - 1910.120(p)(7)(i) - 1910.120(q)(8)(i)	<p>Refresher training. Employees specified in paragraph (e)(1) of this section, and managers and supervisors specified in paragraph (e)(4) of this section, shall receive <u>eight hours of refresher training annually</u> on the items specified in paragraph (e)(2) and/or (e)(4) of this section, any critique of incidents that have occurred in the past year that can serve as training examples of related work, and other relevant topics.</p> <p>New employees. The employer shall develop and implement a training program which is part of the employer's safety and health program, for employees exposed to health hazards or hazardous substances at TSD operations to enable the employees to perform their assigned duties and functions in a safe and healthful manner so as not to endanger themselves or other employees. The initial training shall be for 24 hours and <u>refresher training shall be for eight hours annually</u>. Employees who have received the initial training required by this paragraph shall be given a written certificate attesting that they have successfully completed the necessary training.</p> <p>Those employees who are trained in accordance with paragraph (q)(6) of this section shall receive <u>annual refresher training</u> of sufficient content and duration to maintain their competencies, or shall demonstrate competency in those areas <u>at least yearly</u>.</p>
Respiratory Protection - 1910.134(k)(5)	<p><u>Retraining shall be administered annually</u>, and when the following situations occur:</p> <p>(i) Changes in the workplace or the type of respirator render previous training obsolete;</p> <p>(ii) Inadequacies in the employee's knowledge or use of the respirator indicate that the employee has not retained the requisite understanding or skill; or</p> <p>(iii) Any other situation arises in which retraining appears necessary to ensure safe respirator use.</p>
Fire Brigades - 1910.156(c)(2)	The employer shall assure that training and education is conducted frequently enough to assure that each member of the fire brigade is able to perform the member's assigned duties and functions satisfactorily and in a safe manner so as not to endanger fire brigade members or other employees. All fire brigade members shall be <u>provided with training at least annually</u> . In addition, fire brigade members who are expected to perform interior structural fire-fighting shall be provided with an education session or training at least quarterly.
Portable Fire Extinguishers - 1910.157(g)(2) - 1910.157(g)(4)	<p>The employer shall provide the education required in paragraph (g)(1) of this section upon initial employment and <u>at least annually thereafter</u>.</p> <p>The employer shall provide the training required in paragraph (g)(3) of this section upon initial assignment to the designated group of employees and <u>at least annually thereafter</u>.</p>
Fixed Extinguishing Systems - 1910.158(b)(10)	The employer shall train employees designated to inspect, maintain, operate, or repair fixed extinguishing systems <u>and annually review their training</u> to keep them up-to-date in the functions they are to perform.
Mechanical Power Presses - 1910.217(h)(13)(i)	The operator training required by paragraph (f)(2) of this section shall be provided to the employee before the employee initially operates the press and as needed to maintain competence, but <u>not less than annually thereafter</u> . It shall include instruction relative to the following items for presses used in the PSDI mode.
Asbestos - 1910.1001(j)(2)(i) & (ii) - 1910.1001(j)(2)(iv)	<p>(i) The employer shall train each employee who is exposed to airborne concentrations of asbestos at or above the PEL and/or excursion limit in accordance with the requirements of this section. The employer shall institute a training program and ensure employee participation in the program.</p> <p>(ii) Training shall be provided prior to or at the time of initial assignment and <u>at least annually thereafter</u>.</p> <p>(iv) The employer shall also provide, at no cost to employees who perform housekeeping operations in an area which contains ACM or PACM, an asbestos awareness training course, which shall at a minimum contain the following elements: health effects of asbestos, locations of ACM and PACM in the building/facility, recognition of ACM and PACM damage and deterioration, requirements in this standard relating to housekeeping, and proper response to fiber release episodes, to all employees who perform housekeeping work in areas where ACM and/or PACM is present. Each such employee shall be <u>so trained at least once a year</u>.</p>
Thirteen Carcinogens - 1910.1003-1016(e)(5)(I)	A review of this section at the employee's first training and indoctrination program <u>and annually thereafter</u> .
Vinyl Chloride - 1910.1017(j)(1)(ix)	A review of this standard at the employee's first training and indoctrination program, <u>and annually thereafter</u> .
Inorganic Arsenic - 1910.1018(O)(1)(ii)	(ii) The training program shall be provided by October 1, 1978, for employees covered by this provision, at the time of initial assignment for those subsequently covered by this provision, <u>and at least annually</u> for other covered employees thereafter; and the employer shall assure that each employee is informed of the following . . .

Access to Employee Exposure and Medical Records - 1910.1020(g)(1)(i)-(iii)	Upon an employee's first entering into employment, <u>and at least annually thereafter</u> , each employer shall inform current employees covered by this section of the following: (i) The existence, location, and availability of any records covered by this section; (ii) The person responsible for maintaining and providing access to records; and (iii) Each employee's rights of access to these records.
Lead - 1910.1025(l)(1)(iv)	The training program shall be <u>repeated at least annually</u> for each employee.
Cadmium - 1910.1027(m)(4)(ii)	Training shall be provided prior to or at the time of initial assignment to a job involving potential exposure to cadmium <u>and at least annually thereafter</u> .
Benzene - 1910.1028(j)(3)(i)	The employer shall provide employees with information and training at the time of their initial assignment to a work area where benzene is present. If exposures are above the action level, employees shall be provided with information and <u>training at least annually thereafter</u> .
Coke Oven Emissions - 1910.1029(k)(1)(iii)	The training program shall be <u>provided at least annually</u> for all employees who are employed in the regulated area, except that training regarding the occupational safety and health hazards associated with exposure to coke oven emissions and the purpose, proper use, and limitations of respiratory protective devices shall be provided at least quarterly until January 20, 1978.
Bloodborne Pathogens - 1910.1030(q)(2)(ii)	(ii) Training shall be provided as follows: (A) - At the time of initial assignment to tasks where occupational exposure may take place; (B) - <u>At least annually thereafter</u> .
Cotton Dust - 1910.1043(j)(1)(ii)	The training program shall be provided prior to initial assignment and shall be <u>repeated annually</u> for each employee exposed to cotton dust, when job assignments or work processes change and when employee performance indicates a need for retraining.
Acrylonitrile (Vinyl Cyanide) - 1910.1045(o)(1)(ii)	Training shall be provided at the time of initial assignment, or upon institution of the training program, <u>and at least annually thereafter</u> , and the employer shall assure that each employee is informed of the following: (A) - The information contained in appendixes A and B; (B) - The quantity, location, manner of use, release, or storage of AN, and the specific nature of operations which could result in exposure to AN, as well as any necessary protective steps; (C) - The purpose, proper use, and limitations of respirators and protective clothing; (D) - The purpose and a description of the medical surveillance program required by paragraph (n) of this section; (E) - The emergency procedures developed, as required by paragraph (i) of this section; (F) - Engineering and work practice controls, their function, and the employee's relationship to these controls; and (G) - A review of this standard.
Ethylene Oxide - 1910.1047(j)(3)(i)	The employer shall provide employees who are potentially exposed to EtO at or above the action level or above the excursion limit with information and training on EtO at the time of initial assignment <u>and at least annually thereafter</u> .
Formaldehyde - 1910.1048(n)(2)	Frequency. Employers shall provide such information and training to employees at the time of initial assignment, and whenever a new exposure to formaldehyde is introduced into the work area. The <u>training shall be repeated at least annually</u> .
Methylenedianiline - 1910.1053(k)(3)(i)	The employer shall provide employees with information and training on MDA, in accordance with 29 CFR 1910.1200(h), at the time of initial assignment <u>and at least annually thereafter</u> .
1,3-Butadiene - 1910.1051(l)(2)(iii)	Training shall be provided prior to or at the time of initial assignment to a job potentially involving exposure to BD at or above the action level or STEL <u>and at least annually thereafter</u> .



To those who have been affected by the devastating fires in and around Boulder County last Thursday, all of us at **MJS Safety Legacy** want to express how sorry we are for your losses. We can't imagine what you're going through ... just know that you're in our thoughts.

Whistleblower Protection

US Department of Labor orders Houston crane company to pay nearly \$24K to worker who refused to violate federal law

A federal whistleblower investigation led the U.S. Department of Labor's **Occupational Safety and Health Administration** to order a Houston mobile crane rental company to **pay a former employee nearly \$24,000 in back wages, interest and damages** after **firing the worker in June 2020 for refusing to drive in excess of federal limits and reported fatigue.**

OSHA determined the **Houston rental company** violated the **Surface Transportation Assistance Act** when it **retaliated against the employee** on June 5, 2020, for **refusing to exceed safe driving limits** set by the **Federal Motor Carrier Safety Administration**. The **employee worked 19 hours the day prior and could not get the required time off before returning to work – making it unsafe to operate a vehicle.** The investigation led **OSHA** to **order the company to pay the driver nearly \$14,000 in back wages, interest and compensatory damages, and \$10,000 in punitive damages.**

This company **“punished a driver who refused to jeopardize their safety and that of others on the road by violating federal laws that restrict how many hours a truck driver may operate a commercial vehicle each day,”** said **OSHA Regional Administrator Eric Harbin in Dallas.** **“Commercial truck drivers, mechanics and other workers are critical to our nation’s transportation infrastructure and our economy, but they should never be forced to put themselves or others at risk because of an employer’s concern for profit, or fear retaliation for exercising their legal rights.”**

The **Crane rental company** provides **hydraulic truck cranes and rigging services** to several **industries, including construction, oil and gas, freight transportation and chemical manufacturing.** It has operated for **20 years** and serves the **greater Houston area.**

OSHA’s Whistleblower Protection Program enforces the **whistleblower provisions of more than 20 whistleblower statutes** protecting employees from retaliation for reporting violations of various **workplace safety and health, airline, commercial motor carrier, consumer product, environmental, financial reform, food safety, health insurance reform, motor vehicle safety, nuclear, pipeline, public transportation agency, railroad, maritime, securities, tax, antitrust, and anti-money laundering laws** and for **engaging in other related protected activities.** For more information on **whistleblower protections, visit OSHA’s Whistleblower Protection Programs webpage.**

US Department of Labor alleges global truck manufacturer fired worker concerned about coronavirus safety at Texas facility

As the coronavirus began to spread rapidly across the nation in **March 2020, an employee of one of the world’s largest manufacturers of light, medium and heavy-duty trucks** told a supervisor of their **concerns about exposure to the virus at the Denton facility.**

In response, a **representative of the company** told the **employee** that the **company planned to clean work spaces and continue work as usual.** After the company later learned the **employee expressed concerns publicly about the company’s response and their concern for the safety of other employees, the company fired the employee.**

A subsequent investigation by the **U.S. Department of Labor’s Occupational Safety and Health Administration** found the **employee engaged in protected activity** by raising their **workplace safety concerns, and that the company’s retaliation violated federal whistleblower protections.**

On **Nov. 17, the department’s Office of the Solicitor** filed suit against the **Denton facility** in the **U.S. District Court for the Eastern District of Texas.** In its action, the **department asks the court to order the company to comply with anti-retaliation provisions in the Occupational Safety and Health Act; reinstate the employee to his former employment position with the company, pay the employee back wages, interest, compensatory and punitive damages and other remedies; and expunge the employee’s personnel record.**

“Our investigation found that the **worker was terminated** for reporting their **concerns that the company’s response to the dangers of the coronavirus would not prevent its spread,**” said **Regional OSHA Administrator Eric S. Harbin in Dallas.** **“Every worker has the right to report safety concerns of any kind without fear of retaliation.”**

“The **U.S. Department of Labor will hold employers accountable** when they **retaliate against workers who raise safety concerns for themselves and their co-workers,**” said **Regional Solicitor of Labor John Rainwater in Dallas.** **“At the same time, the department will work vigorously to ensure a worker’s legal right to a safe and healthy workplace is protected as the law provides.”**

Headquartered in Bellevue, Washington, the company is one of the **world’s largest manufacturers of medium- and heavy-duty trucks.** It also designs and **manufactures trucks under several other brands.**

OSHA SAFETY ADVISORY

Risks of Improper Storage of Hazardous Chemicals at Chemical Warehouses and Chemical Distribution Facilities

Safety concerns associated with Chemical Warehouse and Chemical Distribution Facilities



If your facility manufactures, uses, or stores hazardous chemicals, you may be required to comply with federal laws and regulations to ensure that these chemicals are managed safely and securely. In the past several years, federal agencies have visited numerous chemical warehouses and chemical distribution facilities (i.e., companies that process, formulate, blend, repackage, store, transport, and market chemical products) to determine compliance with applicable regulatory requirements for chemical accident prevention, preparedness, safety, and security. Based on information gathered, agencies found that many facilities do not manage chemicals in a safe or secure manner. Complying with applicable regulations may help avoid catastrophic chemical accidents.

[Read the full Advisory](#) (pdf)

Safety and Health Information Bulletin SHIB 11-08-2021

Rotary Valve/Airlock and Lock-Out/Tag-Out Hazards: *Preventing Amputation Injuries*

Introduction

Rotary valves/airlocks (*rotary valves*) are devices with close-fitting, revolving blades/vanes installed inside industrial equipment to control the flow of materials through a process. Rotary valves are used in many industries and functions. A common example is an airlock used in a pneumatic conveying system to dispense material while maintaining system pressurization.

The moving blades present a significant amputation hazard hidden within the housing around the rotary valves. Often, openings at the inlet and exit of the valve housing are wide enough for workers' hands to enter (e.g., while cleaning, troubleshooting, or maintaining), allowing contact with moving blades and resulting in amputations.

From 2015 to 2020, there were 117 amputation and laceration injuries involving rotary valves nationwide. To prevent these injuries, it is important for employers and workers to understand rotary valves' functions, hazards, and safe use. This Safety and Health Information Bulletin highlights five amputation cases from a single OSHA Area Office involving rotary valves and methods to prevent worker exposure to rotary valve hazards.

[Read the full Bulletin](#) (pdf)



How to Develop Safety Training Programs for Maintenance Workers

Organizations are mandated by law to establish workplace safety programs to guarantee a safe and healthy work environment. Prioritizing safety in an organization reduces the number of work-related incidents and protects assets from damage.



Maintenance operations complement an organization's quest to comply with OSHA standards by ensuring all assets and processes operate at safe levels. Through maintenance, companies can identify impending hazards and evaluate the efficiency of emergency safety equipment. Maintenance workers are exposed to several hazards as they execute their duties. Safety training programs are used for creating awareness of job hazards and encouraging safe working practices.

Steps to develop a robust safety training program

Maintenance operations can be high-risk activities that often need to be accomplished within strict timelines. Following is a simple guide for designing and implementing an effective safety training program tailored for maintenance workers.

▪ Establish training needs

The main role of safety training is to ensure that employees perform their roles safely and in strict adherence to statutory regulations. To create an exhaustive list of training needs, the company conducts an audit on maintenance practices to identify gaps, inherent hazards and risks. The company may enlist the services of an external expert, who will evaluate the needs and reconcile them with relevant OSHA regulations.

Conducting a job hazard analysis, inspecting previous accident records and observing employees while working can provide additional information for establishing and documenting training objectives and goals. Capturing the views and opinions of maintenance employees ensures that no safety risk is overlooked. The training objectives should be clear, concise, and realistic.

▪ Formulate educational activities

The next step involves the planning of learning activities for the transfer of safety skills to maintenance workers. A company may choose to create a visual training program (*simulations, lectures, case studies and self-instructional manuals*) or adopt a hands-on approach. The

learning activities are sequenced to correspond or mimic the actual maintenance activities.

All training materials are designed and prepared at this stage for distribution to the target groups. A learning plan is prepared, providing details on the training schedules, target audiences and evaluation criteria.

▪ **Conduct training**

This phase introduces the maintenance teams to new safety policies, procedures and tools. The training elaborates on the impacts of the new changes to routine maintenance activities and how to enhance safety accountability among all employees. Maintenance workers participate actively in practical activities, applying the new skills in their duties.

During the training period, employees get a chance to participate in practical tasks and try new tools and protective equipment. At this stage, they share their experiences and seek clarifications on safety policies. Maintenance workers are trained on the correct use of personal protective equipment (*PPE*), reporting hazards, and responding to workplace emergencies. Safety signs and warnings are then displayed at strategic locations within the facility to be used as references by employees.

▪ **Review and improve program**

Completing safety training shouldn't mark the end of the program. The new task will be evaluating its success against the set objectives. A safety training program will be successful if the employees attain new skills and implement them to minimize or eliminate safety incidents in an organization.

A review will identify key strengths of the training program, expose areas of weakness and pinpoint objectives that require improvement. Results will be collected from the administration of employee tests, conducting impromptu safety inspections, and analyzing accident records. Insights from the review will help the company in streamlining future training events and perform revisions on training documents, procedures, and skills tests.

The safety training program is administered continuously to existing and new maintenance staff. Additionally, facilities incorporate newer technologies by the day. These changes come with additional safety and regulatory needs. Safety training officers need to find innovative ways to update and improve the existing training objectives and programs.

▪ **(Optional) Implement a suitable EHS software**

Technology solutions remain inevitable in virtually all sectors of the economy. Maintenance workers have access to multiple tools to improve their productivity, collaboration and accuracy while performing their duties. To enhance compliance and safety of their facilities, companies are investing in **Environment, Health and Safety (EHS)** software. These solutions provide sufficient tools for organizations to store and share safety training information such as procedures and manuals.

EHS software enables maintenance workers to report safety incidents whenever they occur. These records are crucial for conducting safety audits within complex facilities. After testing and verifying the efficiency of a safety training program, companies need to find suitable EHS software that complements their training needs and enhances workplace safety.

▪ **Summing up**

Every facility needs to develop a suitable safety training program for its maintenance teams. These programs require continuous monitoring to identify gaps that crop up after implementation. Formulating new safety programs consumes considerable amounts of time and finances as compared to improving initially existing programs. Comprehensive programs should provide sufficient training and employee outreach to facilitate workplace safety and improve a facility's compliance with **OSHA** standards.

**LET MJS Safety Legacy
BE YOUR ONE STOP SHOP
FOR TRAINING.**

**See page 4 for classes
offered this month
as well as links to
all of the training available.**

**Questions?
CALL US!!
WE'RE HERE TO HELP!**

How Data from Construction Wearables Can Benefit Your Construction Business

Smart, wearable technology on construction sites can increase productivity, prevent injury and keep workers aware of situational hazards and their health. And while a U.S. Chamber of Commerce report found that only 6% of contractors used construction wearables onsite in 2018, some 83% of contractors believe that construction wearables would improve on-site safety.



Construction sites are inherently hazardous environments. To mitigate job-related risks, however, companies industry wide are increasingly turning to advanced safety technologies.

The tech that's on the rise: **wearables**. Head to toe wearables are the future of jobsite safety. Smart hard hats, watches, monitors and boots, augmented reality glasses, exoskeletons and wearable sensors not only enhance workplace safety, but also benefit businesses by providing critical lines of communication and actionable data collection.

Here's how equipping workers with wearables can benefit your construction firm.

Industrywide technology rise

Thanks to activity trackers from Apple, Fitbit, and Jawbone, wristwear-segment wearables have opened the floodgates for widespread wearable technology adoption. In fact, the wearable tech market is expected to grow from \$40.6 billion in 2020 to \$100.4 billion by 2027, according to recent industry predictions.

An industry readily embracing a wave of new technology (*i.e.*, drones, equipment tagging, 3D printing, robotics, virtual and augmented reality), the construction industry as a whole is primed for mass wearables adoption. For starters, workers already wear personal protection equipment. Moreover, construction has the worst statistics for worker health and safety of all major industries. With 1 in 5 worker fatalities in 2019 occurring in construction, companies and employees are embracing workplace safety initiatives like the implementation of wearable technology.

Boost data value

Of the potential solutions construction firms can implement, wearable devices offer a high level of user functionality and are among the most insightful. Equipped with sensors, GPS, heart-rate monitors, activity trackers, pressure, fall and gas detection, wearables can track a plethora of worker health and safety metrics. This data can in turn be used by companies to better address safety concerns across jobsites, before accidents or injuries occur.

With smartwatches, company leaders and field workers can communicate hands free, track jobsite movement and monitor vital signs — recording and sharing electrocardiogram rhythms and oxygen saturation levels. Wrist wearables can also detect falls and alert on-site and emergency personnel.

Wearable technology is also transforming boots, helmets and safety glasses into powerful, data-collecting and sharing devices. Pressure and location sensors placed in footwear can detect falls and shocks, track

worker location and alert help. Fitted with sensor bands, hard hats become an even more critical piece of safety equipment — tracking vital signs to detect fatigue and alerting workers and equipment operators of potential collisions when paired with heavy machinery sensors. Smart safety glasses are providing workers with live-field data and updates on hazardous materials, leading edges and safety protocols.

Integrate with existing tech

With the ability to collect and share critical data, companies need a way to sync all their tech. Enter a mobile workforce platform. Data from all wearable technology can be compiled by a mobile workforce platform and can be visualized and reported instantly from an individual, team or the entire workforce.

By integrating wearable devices and their data with cloud-based software, accessible on any mobile device, companies can facilitate instant communication between managers and field workers. This open line of communication allows field workers to share their concerns and jobsite experiences with off-site company leadership who may be unaware of jobsite hazards and safety issues. When asked why getting all of your data in one place is important, James Benham, CEO and co-founder, JBKNOWLEDGE, said, "Once you start aggregating all the data across all of your different verticals you can start making better decisions, data-based decisions, not emotional decisions."

Equipped with data from wearables and first-hand worker accounts, construction companies can mitigate potential jobsite risks, delays and safety issues. Addressing these concerns ahead of time helps to eliminate workplace hazards, keeping employees safe while also delivering projects safely and on time.

Deep dive into your business

Use of wearable technology can give vital insight into a company's entire operations. For one, wearables can track patterns in worker movement and equipment usage to determine dips and increases in productivity. They also monitor worker health and safety, protecting a company's most valuable asset, its people. Moreover, wearables shed light on a company's pressure points that impact their bottom line.

By aligning the field data collected by wearables with project progress and safety reports, finances and more, companies can effectively analyze their business operations and measure key performance indicator (KPI) — a quantifiable measure of performance for a specific objective and one of the keys to having an accurate understanding the overall financial health of the business.

"KPIs are fantastic if people take the time to understand the visibility," said James Coyle, co-founder of Event 1 Software, on how KPI and transparency go hand in hand. Adding the KPI is even more relevant today, "because of wearable technology collecting information from the field."

With this additional insight, departments across firms can identify targets to achieve, track milestones to gauge progress, make data-backed decisions, understand each other's needs and work more collaboratively.

Wearable technology is taking construction safety and data collection to the next level. With the ability to collect and share critical health and safety data, wearables are preventing workplace accidents, improving incident response, increasing overall jobsite safety and effectively improving the entire operation of these companies leveraging them.

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.

DRUG AND ALCOHOL Clearinghouse

Reporting Test Refusals to the Clearinghouse

As established by [49 CFR 382.705](#), employers and medical review officers (MROs) are required to report violations of **FMCSA's Drug and Alcohol Testing Policy** in the **FMCSA CDL Drug and Alcohol Clearinghouse**.

This includes reporting test refusals.

The lists below show the types of refusals that must be reported to the **Clearinghouse**, and by whom. Review the information below and take appropriate actions to ensure that you and your company are fulfilling your **Clearinghouse** requirements.

Employers must report the following test refusals:

- Failure to appear at a urine collection site when directed to report
- Failure to remain at the urine collection site
- Failure to provide a urine specimen
- Failure to permit a monitored or observed urine collection
- Failure or refusal to take an additional drug test the employer or collection as directed
- Failure to cooperate with any part of the urine collection process
- For an observed collection, failure to follow the instructions to raise and lower clothing and turn around
- Possesses or wears a prosthetic or other device that could be used to interfere with the collection process
- Admits to the collector to having adulterated or substituted the specimen

MROs must report the following test refusals:

- Failure to provide a sufficient amount of urine
- Failure to undergo a medical examination or evaluation the MRO or employer has directed
- Adulterated or substituted urine specimen

Download the "How to Report a Violation" job aids for [Employers](#) and [MROs](#) for more details.

For more information on fulfilling your Clearinghouse requirements, visit the [Clearinghouse Learning Center](#).

Trucking Law: Can you refuse to drive in poor weather?

SOURCE: Attorney Paul O. Taylor, managing partner of Truckers Justice Center
(855) 943-3518 or TruckersJusticeCenter.com.

Every year I get calls from drivers who encounter bad weather on the road, refuse to drive until conditions improve and are fired as a result. Here are common questions I get.



Do I have the right to refuse to drive in dangerous road conditions?

Under the employee protection provision of the **Surface Transportation Assistance Act**, you have the right to refuse to operate a commercial vehicle if it would be unsafe to drive. U.S. Department of Transportation regulations state that *“if conditions become sufficiently dangerous, the operation of the commercial motor vehicle shall be discontinued and shall not be resumed”* until it’s safe to drive.

This does not mean that you have the right to refuse a load just because snow is forecast or because you think the weather could turn bad. Conditions must be bad enough at the time you refuse, whether at the start of the haul or at some point along your route, that it would be unsafe to operate a commercial vehicle.

Unlike the depth of your tire tread or the thickness of a brake shoe, both of which can be measured easily with the right tools, gauging whether driving conditions are unsafe is somewhat subjective. Are you driving in the mountains or over a steep grade? Have you observed other vehicles having difficulty with traction and control? What are other drivers saying about the road conditions ahead? What kind of freight are you hauling, and how is the weight distributed? You must take all such factors into consideration and make a judgment call as to whether conditions are too dangerous.

How do I go about refusing to drive in bad weather?

Once it becomes clear that road conditions are too hazardous for driving, you must inform your dispatcher that you are refusing to drive and why. The best way to do this is usually in writing, since it creates a record. If you communicate with your dispatcher using an in-cab device, e-mail or text, send a message clearly stating that you are refusing to drive because the weather is bad and the road conditions are unsafe.

Be sure to provide some details about why you believe the conditions are unsafe. It could be snowing heavily and impairing visibility on the road, or perhaps you heard a forecast on the radio predicting imminent freezing rain or advising against any driving. It is your responsibility to communicate to your supervisor why you are refusing to operate the vehicle.

What type of documentation should I have in order to protect myself?

Whenever you think you might be fired for refusing to violate any commercial vehicle safety regulation, keeping documentation is a good idea.

In the case of refusing to drive in hazardous weather, obtain weather forecasts from local news and information from the National Weather Service. If you have a smartphone, take photographs of your Qualcomm and text messages documenting your refusal to drive and your clearly stated reasons for the refusal. Obtain names and telephone numbers of other drivers who also were facing these same adverse conditions.

A claim under STAA has a statute of limitations. This means you must file your claim with the Occupational Safety and Health Administration within 180 days of your termination. You can consult with an attorney to determine whether you have a claim and how best to proceed.

Drive safely and know your rights!

CVSA Adopts Education Program Addressing Driver Fatigue



The **Commercial Vehicle Safety Alliance (CVSA)** is now home to the **North American Fatigue Management Program (NAFMP)**, a comprehensive educational and training program aimed at preventing fatigue-related risks and crashes and cultivating a corporate safety culture that proactively works to eliminate driver fatigue.

As an organization comprised of law enforcement jurisdictions, motor carriers, trucking organizations, safety associations and federal agencies committed to eliminating crashes, CVSA was tasked by the **Federal Motor Carrier Safety Administration** with the management and evolution of the NAFMP. The NAFMP steering committee also includes **Transport Canada**, working closely with **FMCSA** to support the program.

"Our goal at CVSA is to prevent crashes involving commercial motor vehicles," said CVSA President Capt. John Broers with the South Dakota Highway Patrol. "Offering the North American Fatigue Management Program as one of the Alliance's driver-related educational programs helps us do our part to combat crashes caused by driver fatigue and exhaustion."

The NAFMP was developed by medical and sleep scientists from Canada and the United States through a multi-year, four-phase comprehensive process. The program aims to prevent driver fatigue and eliminate fatigue-related crashes by:

- Offering easy-to-access online fatigue prevention training and education to commercial motor vehicle drivers, motor carrier executives and managers, freight shippers and receivers, dispatchers, driver managers, driver's spouses and families, safety managers and trainers, etc.
- Encouraging a motor carrier safety culture that proactively considers situations that may contribute to driver fatigue and fights to prevent it
- Identifying sleep disorders and treatment options
- Utilizing driver fatigue management technologies

Greater Split-Sleeper Flexibility, Infrastructure Investment, Clarified Independent Contractor Status:

Trucking Groups' Recommendations to Improve Supply Chain



Earlier this year, the U.S. Department of Transportation called on various transportation industries, including trucking, to provide information about ongoing supply chain disruptions for a report to be submitted to President Joe Biden.

More than 400 comments were submitted between Sept. 16 through Oct. 18. Under an executive order issued by Biden in February, DOT Secretary Pete Buttigieg is required to submit, within a year of the order, a report to the President on supply chains for the transportation industrial base. Comments received on this information request will be used in that report.

Trucking groups including the Owner-Operator Independent Drivers Association, National Association of Small Trucking Companies, American Trucking Associations and others submitted their comments to answer a number of questions posed by DOT in the information request.

Trucking groups focused on many of the topics that are often brought up as issues in the industry that impede the movement of freight, including detention time, insufficient truck parking facilities, infrastructure investment, independent contractor status issues and more.

"While global supply shortages have recently forced some truckers off the road due to regulatory processing delays and difficulties finding replacement parts for faulty equipment, the current crisis is not due to a shortage of truck drivers," OOIDA said in its comments. "Because the real bottlenecks in the supply chain occur at pickup and delivery points, adding more trucks and drivers will simply make lines longer, not faster."

The group added that DOT should prioritize "resolving the underlying circumstances that have led to excessive driver turnover. We support the administration's efforts to improve the quality of trucking jobs, but this must start with treating drivers as essential workers which means valuing and compensating them for all of their time."

Infrastructure investment

OOIDA and ATA were among commenters to note the **lost productivity in trucking** due to **highway congestion**, which **costs trucking nearly \$75 billion** and more than a **billion hours of lost productivity** annually.

“Congestion serves as a **brake on economic growth and job creation nationwide**,” ATA said. “A **first-world economy** cannot survive a **third-world infrastructure system**. As such, the **federal government** has a **Constitutional responsibility** to ensure that the resources are **available to address this self-imposed and completely solvable situation**.”

The **two groups** also specified the **shortage of truck parking** as a **barrier to supply chain efficiency**. ATA noted that time spent **looking for parking costs individual truck drivers about \$5,500** in direct compensation **annually**, with an average **56 minutes per day** given up if they **choose to park early** rather than **risking not finding parking farther down the road**.

OOIDA said **parking challenges** make it **more difficult for drivers to rest** when they are **tired** and comply with **hours of service regulations**, while often **forcing drivers to park in unsafe locations**.

Sleeper-berth flexibility

NASTC and the **Truckload Carriers Association** each called on **DOT to provide more sleeper-berth options** in the **hours of service regulations** to allow drivers to **better utilize their time**. *Overdrive's* past **surveying of its owner-operator readers** has **consistently showed** this to be a **high-priority ask** of many **owner-operators themselves** when **considering potential changes** to the **hours of service**.

FMCSA heard those **calls in recent years**, to an **extent**, and just last year **modified the sleeper berth split regs**, allowing for a **7/3-hour split** and new **stop-the-duty-clock mechanisms** within the **shorter of the two periods**. TCA said that **modification "simply does not go far enough** not only to **increase productivity** but also to **improve safety performance** and **reduce exposure**,” TCA said. “Providing **drivers with the flexibility** to take their **rest in the sleeper berth** at the interval that **works best for them** would **greatly help alleviate** the stress of crowded **roadways and lost efficiency** in driving times. **Fewer trucks on the road during rush hour** presents a **commonsense goal for the regulatory community**.”

NASTC said **FMCSA** should **gather additional data** on **5/5 and 6/4 splits** to examine the “**real-world effects of a broader array of split sleeper berth rest**. We **believe** allowing **truckers additional options for sleeper-berth time-splitting** would contribute to **improving the efficiency, safety, and reliability of moving goods**.”

Independent contractor status

Several groups, including **OOIDA, ATA, NASTC and TCA**, voiced concern about **state and federal legislation** in play to **more narrowly define conditions for independent contractors**, such as **California's A.B. 5** (*currently awaiting a petition against it to the Supreme Court*) and introduced union-friendly legislation known as the **PRO Act**.

“One of the **more disruptive developments** that **jeopardizes supply chain reliability** and the **safe, efficient movement of goods** arises from the **uncertain status of independent contractors in trucking and transportation**,” NASTC commented. “The state of California **bears much of the blame** for this **threat due to its A.B. 5 state law**. This **casts long shadows** upon the **long-haul trucking workforce**, **good-paying jobs**, and the fulfillment of **current and future needs** and opportunities. Further, the **Protecting the Right to Organize (PRO) Act's Section 101(b)** would **essentially federalize the California A.B. 5 law's 'ABC test' for worker classification**.”

NASTC also urged the **Department of Labor** to consider **reinstating** the Trump-era **independent contractor rule** that was **withdrawn** when the **Biden administration took office**. The **rule would have defined independent contractor** within the **Fair Labor Standards Act** using **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**, carrying **greater weight** than the **other three factors**.

TCA called the **ABC test** “**potentially one of the greatest threats to trucking's ability to move freight** across the country. On **top of the driver departure** likely to be **caused by a vaccine mandate**, any threat to a **driver's ability to be in business for him- or herself** and operate as an **independent contractor**, not an **employee driver**, will **significantly hamper the trucking industry** and our **work on behalf of the American public**,” the group said.

The Mine Safety and Health Administration is in Transition Mode

SOURCE: National Law Review - Dec 9, 2021



Two words sum up where the **Mine Safety and Health Administration (MSHA)** is as 2021 comes to a close and mine operators prepare for 2022: *transition period*.

Whenever control of the White House shifts from one political party to another, every executive branch department and agency undergoes a change in direction that can be quite significant. New political appointments are made in agency leadership, and there can be changes in career agency-level management. New issues are certainly emphasized, and new policies emerge. And this is no less true of MSHA.

This time, due to delays caused by the pandemic and other factors, MSHA's transition period has been prolonged. It may not be until well into 2022 before the new direction of the agency becomes clear.

No Head of MSHA Yet Confirmed

A key reason that no one new is currently heading MSHA is because President Biden only selected a candidate on November 12, 2021, to be assistant secretary of labor for mine safety and health.

That nominee is Christopher Williamson, a West Virginia native who currently serves as senior counsel to National Labor Relations Board Chair Lauren McFerran. Williamson previously worked on Capitol Hill as labor counsel to former senator Tom Harkin (D-IA) on the U.S. Senate Committee on Health, Education, Labor, and Pensions. He was also a legislative assistant to Senator Joe Manchin (D-WV).

Williamson has MSHA experience, having worked in a senior leadership role at the agency during the Obama administration. He was a judicial clerk at the Federal Mine Safety and Health Review Commission. And his nomination has the full support of the United Mine Workers of America.

Focus on Rulemaking Underway

The fact that MSHA continues its transition in the new administration does not mean that operators are not seeing changes in the agency or its activities.

One obvious new development is on the rulemaking front. While the prior administration had talked about issuing new safety and health rules and engaged in preliminary information-collection activities toward that end, MSHA under the Trump administration did not publish any significant proposal for the metal/nonmetal industry.

By contrast, MSHA under the Biden administration recently issued a proposed rule that would mandate safety programs for surface mobile equipment. Additionally, MSHA indicated that it expects to issue the long-anticipated proposed rule for silica by July 2022.

These two rules—one for surface mobile equipment safety and the other for silica—stand to be the most significant new metal/nonmetal rules issued by MSHA since the Obama administration promulgated the workplace examination rule in January 2017. That rule was issued in a very short six months after the issuance of the proposed rule, and it was the subject of a couple of years of litigation afterward.

As complex as it may be, MSHA's silica rule will likely take longer to reach its final form. Given its current status, the surface mobile equipment rule may well become final in 2022.

Enforcement in the Field

There are other indications of the agency's changing nature beyond rulemaking. Central to these for operators are MSHA's field enforcement activities.

MSHA is continuously engaged in inspections and investigations. While inspections were conducted during the pandemic, many of MSHA's investigation activities, with the exception of fatality and serious injury investigations, shifted to being conducted remotely.

That has been changing somewhat in the latter half of 2021. But MSHA continues to conduct many special investigations via videoconference, with requests and exchanges of documents and other information via email and telephone. Operators can anticipate more investigation activity to be conducted again in person as COVID-19 case statistics improve.

An ongoing concern for pit and quarry operators is MSHA's assignment of former coal inspectors to metal/nonmetal mines. This will continue to be a concern for them in 2022. In addition, operators will see many new faces at MSHA as 2022 progresses. MSHA's workforce is again in transition as new inspectors and other officials are being hired to replace the significant number who retired, as well as to fill new positions being created in the district and field offices.

Operators may want to be alert to the possibility of inconsistent interpretations of the agency's standards, which has long been an issue whenever there has been a change in enforcement personnel.

Key Takeaways

While the mining industry made great strides over the decades to reduce fatalities and injuries, the number of fatalities has plateaued over the last several years, remaining right around 30 per year.

In 2022, MSHA may respond by issuing more citations with significant and substantial (S&S) allegations. The agency may also more aggressively prosecute violations related to conditions the agency identifies as being the cause of safety incidents across the industry. Along with increased rulemaking, this may be one of the more critical changes coming in 2022 and in the remaining years of the present administration.





First-Aid Supplies – maintaining a well stocked kit



OSHA requires employers to provide a safe workplace that is reasonably free of hazards. Still, accidents happen, so employers must also provide access to emergency medical care and appropriate first aid supplies.

It is advisable for the employer to give a specific person the responsibility for choosing the types and amounts of first-aid supplies and for maintaining these supplies. The supplies must be adequate, should reflect the kinds of injuries that occur, and must be stored in an area where they are readily available for emergency access. An *automated external defibrillator* (AED) should be considered when selecting first-aid supplies and equipment.

The following list sets forth the minimally acceptable number and type of first-aid supplies for first-aid kits required under paragraph (d)(2) of the [logging standard](#). The contents of the first-aid kit listed should be adequate for small work sites, consisting of approximately two to three employees. When larger operations or multiple operations are being conducted at the same location, employers should determine how many first-aid kits are needed, and if it is appropriate to augment the kits with additional first-aid equipment and supplies.

1. Gauze pads (at least 4 x 4 inches).
2. Two large gauze pads (at least 8 x 10 inches).
3. Box adhesive bandages (band-aids).
4. One package gauze roller bandage at least 2 inches wide.
5. Two triangular bandages.
6. Wound cleaning agent such as sealed moistened towelettes.
7. Scissors.
8. At least one blanket.
9. Tweezers.
10. Adhesive tape.
11. Latex gloves.
12. Resuscitation equipment such as resuscitation bag, airway, or pocket mask.
13. Two elastic wraps.
14. Splint.
15. Directions for requesting emergency assistance.

Employers who have unique or changing first-aid needs should consider upgrading their first-aid kits. The employer can use the [OSHA 300 log](#), [OSHA 301 reports](#) or other records to identify the first-aid supply needs of their worksite. Consultation with the local fire and rescue service or emergency medical professionals may be beneficial. By assessing the specific needs of their workplaces, employers can ensure the availability of adequate first-aid supplies. Employers should periodically reassess the demand for these supplies and adjust their inventories.

Automated External Defibrillators

With recent advances in technology, *automated external defibrillators* (AEDs) are now widely available, safe, effective, portable, and easy to use. They provide the critical and necessary treatment for *sudden cardiac arrest* (SCA) caused by *ventricular fibrillation*, the uncoordinated beating of the heart leading to collapse and death. Using AEDs as soon as possible after *sudden cardiac arrest*, within 3-4 minutes, can lead to a 60% survival rate. CPR is of value because it supports the circulation and ventilation of the victim until an electric shock delivered by an AED can restore the fibrillating heart to normal.

All worksites are potential candidates for AED programs because of the possibility of SCA and the need for timely defibrillation. Each workplace should assess its own requirements for an AED program as part of its first-aid response.

A number of issues should be considered in setting up a worksite AED program: physician oversight; compliance with local, state and federal regulations; coordination with local EMS; a quality assurance program; and a periodic review, among others. The [OSHA website](#) or the websites of the [American College of Occupational and Environmental Medicine](#), the [American Heart Association](#), the [American Red Cross](#), [Federal Occupational Health](#), and the [National Center for Early Defibrillation](#) can provide additional information about AED program development. (*American Heart Association in collaboration with International Liaison Committee on Resuscitation. Guidelines 2000 for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care: International Consensus on Science, Part 4: The Automated External Defibrillator. Circulation. 2000; Vol. 102, Supplement: I 61. Figure 1.*)

Record Keeping

OSHA regulations require businesses to keep clear records on workplace injuries and illnesses. A business is exempt from these [recording requirements](#) if it employs 10 or fewer employees or is involved in a low-hazard industry. Know your requirements!

Assistance

To clear up any confusion in interpreting the regulations, **OSHA** provides compliance assistance and training through online training programs and local **OSHA** compliance offices.

MJS Legacy Safety can assist with set-up and implementation of the requirements! Give us a call!