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VACCINE MANDATES**

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OVERALL WELL BEING

**THE HEAT  
STRESS INITIATIVE**  
CONSTRUCTION  
CAN DO BETTER

# HEALTH & SAFETY

WELLNESS ISSUES CHALLENGE INDUSTRY

ALSO INSIDE:  
**ARE YOU SAFER  
THAN LAST YEAR?**  
PAGE 5



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MERIT SHOP

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# HEALTH & SAFETY

WELLNESS ISSUES CHALLENGE INDUSTRY

## TABLE OF CONTENTS

NOVEMBER / DECEMBER 2021

- 4 President's Message**  
Are you safer than last year?
- 4 Event Reminders**
- 5 Navigating New Vaccine Mandates**
- 10 DOT Rules & Regulations**  
The more familiar you are, the more likely you are to avoid violations.
- 13 Mental Health**  
It's part of your overall well being.
- 16 Site Communications**
- 18 The Heat Stress Initiative**  
Construction can do better
- 21 Associated Builders and Contractors New Members**



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**FROM OUR PRESIDENT**

# Are you safer than last year?



**ARE YOU A BETTER CONTRACTOR THAN YOU WERE AT THIS TIME LAST YEAR?**

When you ask yourself this question, quality of services or profitability may come to mind. Certainly, these are important for sustainability of your organization, but what about safety? Does safety come to mind? Are you safer than you were last year?

As an employer, you have a responsibility to look after the well-being of all your employees. Individuals could be injured or even die as a result of a construction incident that could happen at any time, especially if your company does not strive to do its best by deploying the best in safety practices.

There are a number of things that make a construction company safe. Here are a few that you can use for a quick evaluation for where you are with safety, many of which you will find addressed in this issue of the Merit Shop Contractor:

**1. Safety should be ingrained in your company culture.** A safety culture starts at the top with you. When company owners or CEOs are leading the charge to adopt a culture of safety, total recordable incident rates (TRIR) and days away, restricted or transferred (DART) are reduced significantly.

**2. Training should be constant.** The safest contractors are continually look for – and providing – safety training for employees. This doesn't mean providing the bare minimum to "just get by" but frequent training on processes and equipment.

**3. Communication is a priority.** Safety knowledge should be shared with everyone in a company. Communication is essential to not only enhance safety but build trust. You are only as safe as your least-educated employee.

**4. Equipment and gear are high quality and maintained properly.** This starts with the proper personal protective equipment (PPE) for all employees, kept updated to the latest standards. It also includes the proper training on how to use it.

**5. You must be proactive, not reactive.** Does your company develop site-specific safety plans and are they adjusted based on work progress? How about a safety committee, safety audits or daily safety meetings? Some companies empower any person on a jobsite the authority to address any safety concern.

One of the major principles that differentiates merit contractors from others is the prioritization of people. Now, more than ever, it's important to show your employees how much you care about them. Establishing an aggressive approach to safety is a great way to do it.

*John Mielke*

“  
 AS AN EMPLOYER,  
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• **NETWORKING SOCIAL**  
 West Bend, Nov. 11

• **NETWORKING SOCIAL**  
 Brookfield, Nov. 17

• **FOREMAN FUNDAMENTALS COURSE**  
 Madison, Nov. 29

• **READING CONSTRUCTION DOCUMENTS PROGRAM**  
 Online, Nov. 30

• **SAFETY "BREAKFAST"**  
 Online, Dec. 1

• **BEAT THE LABOR SHORTAGE WITH SIMPLE CONSTRUCTION TECHNOLOGY: A PRODUCT SHOWCASE**  
 Online, Dec. 2

• **NETWORKING SOCIAL**  
 Fond du Lac, Dec. 9

• **NETWORKING SOCIAL**  
 Madison, Dec. 15

• **FOREMAN FUNDAMENTALS COURSE**  
 Online, Dec. 27

• **APPRENTICESHIP SKILL COMPETITION**  
 West Bend, Jan. 21

• **PROJECTS OF DISTINCTION AWARDS BANQUET**  
 Pewaukee, Jan. 27



# Navigating VACCINE mandates

By Charles B. Palmer and Bridget M. Smith – Michael Best

On Nov. 4, 2021, the U.S. Department of Labor’s Occupational Safety and Health Administration (“OSHA”) announced its much anticipated Emergency Temporary Standard (“ETS”) regarding COVID-19 vaccination and testing. An official version of the standard was published in the Federal Register on Nov. 5, 2021. This article is meant to provide a useful summary of the timelines and requirements of the standard and the anticipated legal challenges it currently faces or will face. At least for the time being, the ETS is effective for a period of six months from publication — the OSH Act treats the enactment of such temporary standards as a call to finalize a permanent rule within six months.

#### Key deadlines include:

- Dec. 5, 2021: Employers must: (1) collect each employee’s vaccination status; (2) require unvaccinated employees to wear masks are mandatory for unvaccinated employees (3) educate employees on and promote the benefits of the COVID-19 vaccine; and (4) require employees who are COVID-19 positive to quarantine and set protocols for dealing with the same. (Note: these actions should begin as soon as possible, if not already in place).
- Jan. 4, 2022: Employers must begin testing unvaccinated employees weekly. Note that employers are not required to pay for testing.

OSHA has stated the purpose of the ETS is to “establish minimum vaccination, vaccination verification, face covering, quarantine, and testing requirements to address the grave danger of COVID-19 in the workplace.” Further, the ETS is intended to preempt any state or local requirement that bans or limits an employer’s authority to require vaccinations, face coverings, or testing. The preamble specifically states that “[t]o avoid ambiguity, OSHA has stated expressly that it intends this ETS to preempt all State and local workplace requirements that ‘relate’ to these issues, except pursuant to a State [OSHA] Plan.” (See State OSHA Plans Below)

#### Am I a Covered Employer? The 100 Employee Threshold

The ETS applies to all employers with a total of 100 or more employees at any time the ETS is in effect. The following are examples of when employees would count towards this 100 employee threshold:

- For a single corporate entity with multiple locations – All employees at all locations are counted to meet the 100-employee threshold.
- For a franchisor-franchisee relationship where each franchise location is independently owned and operated – The franchisor and franchisees are considered separate entities. The franchisee may count its employees separately from the franchisor.





- Two or more related entities may be a single employer for OSHA Act purposes if they handle safety matters as one company, in which case the employees of all entities making up the integrated single employer are counted to meet the 100-employee threshold. Note: This test appears different in focus than the traditional integrated employer analysis, as it focuses narrowly on the coordination of safety matters between entities.

- For employees of a staffing agency placed at a host employer location – Only the staffing agency counts those jointly employed workers for purposes of the 100 employee threshold.

- For a typical multi-employer worksite (i.e., a construction site) – Each company represented (the host employer, the general contractor, and each subcontractor) counts its own employees separately. The host employer and general contractor do not need to count the total number of workers at each site. But each employer must count its own total number of employees regardless of where the employees report to work. For example, if a general contractor has more than 100 employees spread out over multiple sites, that general contractor employer is covered even if it does not have 100 or more employees present at any one worksite.

When counting employees towards this threshold, employers are not required to include independent contractors or leased employees.

Further, employers determine whether they fall within the scope of the ETS based on the number of employees they have as of the effective date of the ETS (Nov. 5, 2021). However, if the employer has less than 100 employees prior to the effective date, but then increases above 100 employees, the employer must come into compliance at that point, and remain in compliance for the remainder of the six-month duration of the ETS.

The ETS does not apply to workplaces covered under the Safer Federal Workforce Task Force COVID-19 Workplace Safety: Guidance for Federal Contractors and Subcontractors.

**I am a Covered Employer, but do the ETS Requirements apply to all of my employees? Remote employees and exclusively outdoor employees**

The ETS will not apply to employees of a covered employer who do not report to a workplace where other individuals, such as co-workers or customers are present, who work remotely from home, or who work exclusively outdoors.

In the case of an employee who works remotely from home, if the employee switches back and forth between teleworking and working in a setting where other people are present (such as an office), the employee would be covered by the ETS.

In the case of an employee who works outdoors, the employee is only covered if they work exclusively outdoors. Thus, similar to an employee working remotely from home, if an employee spends more than a de minimis time indoors, the employee would be covered by the ETS. (de minimis is not defined, but it is probably measured as less than 15 minutes – the cumulative amount of time which constitutes a close contact in a 24-hour period for purposes of contact tracing).

**When does the ETS Standard go into effect?**

While the testing related requirements of the ETS officially go into effect on Jan. 4, 2022, employers will need to prepare immediately

to meet all of the other provisions by Dec. 5, 2021. Because the testing will apply to any employee not fully vaccinated by Jan. 4, 2022, any employee who has not supplied proof of full vaccination by then, will have to be tested weekly after that date until fully vaccinated. It takes most of that 60-day period between now and then to become fully vaccinated. If your policy is going to be a vaccination mandate (no testing), vaccination requirements must start now. Even if you plan to allow a testing alternative, planning will need to start immediately to ascertain who will be tested and how you will manage and document that testing.

Provisions of the ETS, which include employers providing paid-time off for employees to receive and recover from any side effects of the COVID-19 vaccine and requiring any unvaccinated employees to wear face coverings or face masks, are effective Dec. 5, 2021. Employers are also required to document the vaccination status of employees by Dec. 5, 2021. And employers must quarantine employees who test positive in accordance with CDC guidance on or after Dec. 5, 2021. (This requirement should be followed already, and virtually all employers know this, but after Dec. 5, 2021, you can be issued a citation under the standard for not doing so).

**What are the Requirements of the ETS?**

The ETS requires covered employers to implement a written policy which either: (a) requires employees to be vaccinated for COVID-19 (mandatory vaccine policy); or (b) permits employees to choose between vaccination or weekly testing for COVID-19 and masking for unvaccinated employees (alternate policy). The standard encourages employers to implement a mandatory vaccine policy, but allows the alternative testing and masking approach.

Employers must take steps to determine the vaccination status of employees, maintain proof of vaccination for employees, and ensure that unvaccinated employees are either prevented from entering the workplace (in the case of mandatory vaccine policies) or required to submit a negative test weekly and wear masks. The ETS addresses what information employers must share with employees; what types of records employers must maintain (and how); and what type of response employers must provide in the case of a positive test, hospitalization, or death from COVID-19. Most notably, the ETS does not require employers to pay for employee testing or face coverings, unless required by other laws (e.g., including disability laws, religious protections, pregnancy protections, and state laws), regulations, collective bargaining agreements, or other collectively negotiated agreements. Each of these requirements is described in greater detail below.

**1. Written Vaccine Policy (by Dec. 5):**

**What should it include?**

Covered employers must implement a written mandatory vaccination policy, unless the employer chooses to implement an alternate policy, whereby employees are permitted to choose between being vaccinated or being tested on a weekly basis and wearing a mask. The written policy should clearly state which is being implemented. A “mandatory vaccination policy” means that every employee must be fully vaccinated, including vaccination of all new employees “as soon as practicable,” unless the employee



at issue has a medical contraindication to the vaccine, is required to delay vaccination due to medical necessity, or is legally entitled to a reasonable accommodation under federal civil rights laws because of a disability or sincerely held religious belief, practice, or observance that conflicts with the vaccine requirement.

The Mandatory Policy: OSHA states in the text accompanying the standard the following additional elements that should be included in a written mandatory vaccination policy: requirements for COVID-19 vaccination; applicable exclusions from the written policy (e.g., medical contraindications, medical necessity requiring delay in vaccination, or reasonable accommodations for workers with disabilities or sincerely held religious beliefs); information on determining an employee’s vaccination status and how this information will be collected as described in paragraph (e) of the standard; paid time and sick leave for vaccination purposes as described in paragraph (f) of the standard; the procedures they must follow to provide notice to the employer of a positive COVID-19 test or diagnosis of COVID-19 by a licensed healthcare provider; information on removal of COVID-19 positive employees from the workplace as described in paragraph (h) of the standard; information to be provided to employees as described in paragraph (j) of the standard including: any disciplinary action for employees who do not abide by the policy; the policy’s effective date; who the policy applies to; deadlines (e.g., for submitting vaccination records).

The Alternate Written policy: (allowing a choice to test and wear a mask) must also address the following topics:

- Face coverings and respirators, including the acceptable types and limited exceptions (such as working alone with the door closed in an office with floor to ceiling walls, removal when eating or drinking) as specifically outlined in the ETS;
- COVID-19 Vaccine Safety, Efficacy and Benefits by providing the document, “Key Things to Know About COVID-19 Vaccines,” available at <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/keythingstoknow.html>;
- Anti-Discrimination and Retaliation under 29 CFR 1904.35(b)(1)(v);
- Criminal Penalties Associated with Knowingly Supplying False Statements or Documents under 18 U.S.C. and Section 17(g) of the OSH Act;
- Temporary Suspension of Testing for Employees Following a Positive COVID-19 Test or Diagnosis (for a Policy with a Testing Option).

## 2. Educating Employees about the ETS Standard and Policy (by Dec. 5)

Employers are required to inform employees about all the information described in the written policy section above. If the written

policy does not contain all this information, it can be provided through email communications, printed fact sheets, or during a meeting. Employers may identify a point-of-contact for employees who have questions about the information provided. Further, the information must be provided in a language and at a literacy level the employee understands.

## 3. Identifying and Maintaining Proof of Vaccination Status (by Dec. 5)

Covered employers will have to determine employee vaccination status and obtain proof of vaccination status. Acceptable proof of vaccination under the ETS may include:

- immunization records from a health care provider, pharmacy, public health, state or tribal immunization agency/system;
- medical records;
- COVID-19 Vaccination Record Card; or
- any other official documentation that identifies the date of administration and entity administering the vaccine.

If an employee is unable to provide any of the acceptable proof of vaccines, employers are permitted to accept an attestation of vaccination status, so long as the attestation certifies the information under specific language and knowledge of criminal penalties for providing false information (described in section 1 above). Further, the ETS notes that employees providing an attestation should still attempt to identify, to the best of their ability, the date of administration of the vaccine and entity that administered it. With respect to the possibility that employees may fabricate vaccination cards or provide false attestations, the preamble to the ETS notes that “while employers may not invite or facilitate fraud, the ETS does not require employers to monitor for or detect fraud.”

A roster of vaccinated and unvaccinated employees must also be maintained.

## 4. Supporting employees in obtaining the COVID-19 vaccine (by Dec. 5) & paid leave

If an employee chooses (or is required) to get the COVID-19 vaccine, the employer must support the employee by providing both time for the employee to receive the vaccine and time for the employee to recover from the vaccine.

When the employee chooses to get the COVID-19 vaccine, the employer must provide a reasonable amount of time to an employee for each of the primary vaccination dose(s) and provide up to four hours of paid time, including travel time, at the employee’s regular rate of pay for this purpose. Employers are not obligated to reimburse employees for transportation costs, such as gas money, incurred to receive the vaccination. Further, because employers are required by the ETS to provide reasonable time for vaccination

*JANUARY 4, 2022:*



***EMPLOYERS MUST BEGIN TESTING UNVACCINATED EMPLOYEES WEEKLY.  
NOTE THAT EMPLOYERS ARE NOT REQUIRED TO PAY FOR TESTING***





during work hours, if an employee chooses to receive a primary vaccination dose outside of work hours, employers are not required to grant paid time to the employee for the time spent receiving the vaccine during non-work hours (unless required by state law or a collective bargaining agreement). Importantly, the maximum of four hours of paid time that employers must provide for the administration of each primary vaccination dose cannot be offset by any other leave that the employee has accrued, such as sick leave or vacation leave. Moreover, if an employee needs more than four hours to receive a primary vaccination dose, any additional time, if it is reasonable, would be considered unpaid but protected leave; the employee may use other leave time available to them, such as sick leave or vacation time, to cover the additional time needed to receive a vaccination dose that would otherwise be unpaid.

After the employee receives a primary vaccination dose, the employer must provide reasonable time and paid sick leave to recover from side effects experienced for each dose. If an employee already has accrued paid sick leave, employers may require the employee to use that paid sick leave when recovering from side effects. If employers only grant one type of leave, employers may require use of that leave for recovery purposes; however, if there are multiple types of leave available to the employee, such as sick leave and vacation leave, the employee may only be required to use sick leave for recovery purposes. Employees cannot be required to use advanced sick leave, to accrue negative sick leave, or to borrow against future sick leave to recover. Further, employers

may set a cap on the amount of paid sick leave available to recover from any side effects, but the cap must be reasonable.

**5. Testing option (by Jan. 4) – How to structure it and who pays for it?**

The Standard does not require employers to pay for vaccines. This decision was surprising, since OSHA often passes compliance costs to employers. But OSHA's reasoning is to favor vaccines by creating an incentive to be vaccinated due to the cost of testing. The standard does not prohibit employers from paying for tests and recognizes that there are other laws that may shift the cost to the employer. This is a mandatory subject of bargaining in union settings unless there is a waiver of that obligation in the contract. Existing contracts may address this already.

State and federal laws governing disability accommodation require the employer to pay for accommodations and may shift the cost of testing to an employer in the case where the employee cannot be vaccinated due to a medical condition. The OSHA standard also cites religious accommodations and links to EEOC guidance. However, federal law concerning religious accommodation states that employers do not have to pay more than a de minimis cost for accommodations.

Some state laws prohibit an employer from charging for mandatory tests. If employees will be required to pay for weekly tests, it is best to issue a policy that requires a vaccine, with tests (and masking) allowed only by accommodation requests. The difference between the mandatory policy and the alternate policy under this

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approach, is that the alternate policy is more liberal on what is an acceptable basis for an accommodation. But in both cases, employees do not simply declare they will not be vaccinated. They must request an accommodation, which is documented. By approaching it in this manner, the employer makes it clear that the test is not a requirement, but an accommodation, which is especially important depending on whether your jurisdiction prohibits an employer from requiring a test without paying for it. Also, by determining the basis for the accommodation, the employer is not later surprised by a claim that the employer violated a legal duty to pay for a required accommodation.

### 6. What testing is allowed

The testing that is allowed is any FDA approved testing, even testing that is at the Emergency Use Authorizations (EUA) stage. However, the testing must be performed in accordance with the authorization instructions and may not be both self-administered and self-proctored. The employer may watch the employee administer his/her own test to meet the standard.

### 7. Enforcement of safeguards for unvaccinated employees and screening of positive cases

Covered employers are required to enforce protocols for unvaccinated employees (for those employers that permit unvaccinated employees with testing or by other accommodation) and for screening positive COVID-19 cases from the workplace. Unvaccinated employees may not be permitted in the workplace without providing a negative COVID-19 test result from within seven days prior to the employee's entrance into the workplace. Employers must also ensure that unvaccinated individuals permitted in the workplace wear acceptable masks or face coverings at all times when indoors or in a vehicle occupied by another employee, with limited exceptions. Further, if an employee tests positive for COVID-19, he or she may not be permitted in the workplace, regardless of vaccination status. Importantly, the ETS does not require that employers pay employees for time off from work due COVID-19 infection, although such leave may be required by other state and local laws or regulations. Employers must temporarily suspend testing of an employee who tested positive for COVID-19 for a period of 90 days following the date of a positive test or diagnosis. An employee is permitted to return to work when the criteria from the CDC's "Isolation Guidance" are met.

### 8. Reporting in-patient hospitalizations or deaths due to work-related COVID-19 exposure

The ETS changes the rules regarding reporting COVID-19 hospitalizations or deaths. The time for reporting – eight hours in the case of death or 24 hours in the case of in-patient hospitalization – is the same. But the measurement for when those time clocks start has changed. In the case of a death, that must be reported within eight hours of the time the employer learned of the death. Previously, no report had to be made if the death did not occur within 30 days of the exposure. That 30-day limit is removed under the ETS.

In the case of a work-related COVID-19 in-patient hospitalization, the prior rule was that it had to be reported if the employee was hospitalized within 24 hours of the exposure, but since it takes

longer than 24 hours to get sick after exposure, those cases never had to be reported. Starting Dec. 5, once the employer learns of an inpatient COVID-19 hospitalization that arose from workplace exposure, the employer has 24 hours to report it to OSHA.

### 9. Maintaining records of vaccination status and responding to record requests (by Dec. 5)

For vaccinated employees, employers must maintain a record of each employee's vaccination status, preserve acceptable proof of vaccination, and maintain a roster of each employee's vaccination status. For unvaccinated employees, employers must maintain a record of each test result provided by each employee. Regardless of whether the employee is vaccinated or unvaccinated, any records provided to the employer are considered medical records and must be maintained in accordance with § 1910.1020; further, they may not be disclosed except as required or authorized by the ETS or other federal law. The records are not subject to the record retention requirements of § 1910.1020(d)(1) (i), but they must be maintained while the ETS is in effect.

If requested, employers must make available for examination and copying individual COVID-19 vaccine documentation and any COVID-19 test results for a particular employee to that employee and anyone having written authorized consent of that employee by the end of the next business day. Further, if requested, employers must make available to the requester the aggregate number of fully vaccinated employees at a workplace along with the total number of employees at that workplace by the end of the next business day.

If the requester is the Assistant Secretary, the employer must provide the employer's written policy required by the ETS and the aggregate number of fully vaccinated employees at a workplace along with the total number of employees at that workplace within four hours of a request; further, the employer must provide all other records and documents required to be maintained by the ETS by the end of the next business day.

### 10. What penalties can be issued for violations?

Citations classified as "serious" carry a penalty of \$13,653 per violation. Citations for failure to abate can carry a penalty of \$13,653 per day beyond the abatement date. Willful citations can cost as much as \$136,532 per violation. Where there is a death or penalties exceed \$40,000 OSHA is likely to issue a press release to thousands of media outlets. Each one of the areas discussed above could lead to a separate penalty.

### ETS challenges

Several lawsuits have already been filed challenging the ETS and requesting that the courts enjoin it. More will likely follow. However, given the fairly tight timeline provided to implement the ETS requirements and the uncertainty of how any litigation will play out, it is prudent to begin compliance preparations immediately. [abcWisconsin](#)

*For additional resources and tools to allow employers to act swiftly in evolving landscape of the COVID-19 vaccine, sample plans and policies, a state-by-state tracker of applicable legal regulations and a broad analysis of laws implicated by the COVID-19 Vaccine and vaccine mandates, consider purchasing Michael Best's Vaccination Policy Toolkit.*

# DOT RULES & REGS

## THE MORE FAMILIAR YOU ARE, THE MORE LIKELY YOU ARE TO AVOID VIOLATIONS

By Ken Alderden – Sentry Insurance

**A**s a safety services consultant with Sentry Insurance, I've seen many Wisconsin contractors incorrectly interpret Department of Transportation (DOT) or Federal Motor Carrier Safety Administration (FMCSA) regulations and receive significant citations as a result. Here's a quick snapshot of violations these contractors have been penalized for:

- Not maintaining annual vehicle inspection certificates.
- Not placing visible DOT number on their vehicles.
- Failing to provide medical certificates or tracking hours of service when they cross state lines.
- Cell phone usage in commercial motor vehicles.

I'd like to help you and your drivers avoid similar issues. The more familiar you are with DOT rules, the more effectively you'll be able to proactively identify risks and avoid violations.

### Understanding vehicle weights and requirements

Many DOT rules covering commercial motor vehicles (CMVs) apply once a vehicle exceeds 10,000 pounds gross vehicle weight rating (GVWR) while engaged in commerce. The same weight requirement applies to truck and trailer combinations, in which case the measurement is gross combined vehicle weight rating (GCVWR). Note that WI Transportation order 327 covers exemptions for CMVs that don't leave the state.

While a half-ton pickup or van generally has a GVWR of around 7,000 pounds and can stay safely under the 10,000 pound limit with the expected maximum of a half-ton of internal cargo, that equation changes if you add a trailer. Three-quarter-ton trucks usually have GVWRs more than 10,000 pounds all by themselves, but some models and engine combinations have been derated to 10,000 pounds. Note the important distinction there; a vehicle derated to 10,000 pounds isn't greater than 10,000 pounds unless you overload it or hook a trailer onto it.

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### VIOLATIONS CONTRACTORS HAVE BEEN PENALIZED FOR:

- Not maintaining annual vehicle inspection certificates.
- Not placing visible DOT number on their vehicles.
- Failing to provide medical certificates or tracking hours of service when they cross state lines.
- Cell phone usage in commercial motor vehicles.



### Commercial driver's licenses (CDLs)

Anyone driving a vehicle that exceeds 26,000 pounds GVWR — or GCVWR with a trailer that also weighs more than 10,000 pounds — needs to have a valid CDL. For example, an 11,350-pound pickup with a 14,000-pound equipment trailer almost reaches that figure (25,250 pounds), but not quite. This means you wouldn't need a CDL unless you overload the vehicle or trailer, which obviously creates its own set of issues.

Other CDL requirements affect vehicles that carry hazardous materials; those with more than 16 passengers, and other scenarios. But for the purposes of our discussion here, vehicle weight — combined or otherwise — is the most relevant variable.

### Commerce

Think of commerce as an action used in the furtherance of a business. Delivering a skid steer to a jobsite would be considered commerce, as would driving your 11,350-pound pickup truck to a meeting at a job site. Now, let's say you use that same vehicle to pull your car-hauler and a UTV up north for the weekend. If the trip isn't related to work, it wouldn't be considered commerce, even though it's the same vehicle — and potentially the same trailer and equipment — you use for work functions.

### Impact on contractors

What do all these weight limits, definitions, and acronyms mean to contractors like you? Simply put, they impact your ability to operate your work vehicles legally in Wisconsin, which obviously, affects your viability as a business.

Common reasons trucks are stopped include easily visible issues, such as:

- Burnt-out signal lights.
- Occupants not wearing seat belts.
- Loose/unsecured items in the back of the truck or on a trailer.

It's also not uncommon for less obvious maintenance violations to be identified on the same date — often during the same inspection — such as the scenarios I listed above, but potentially extending to a wide variety of other, less obvious issues. In other words, let's say one of your drivers is stopped for speeding or another unsafe driving action. The law enforcement officer may notice something like tire wear or unsecured fire extinguishers, which they wouldn't have been able to spot when the vehicle was in motion.

Let's review some steps you can take to help stay compliant out on the road.

### DOT numbers

You're required to obtain a DOT number and display it on your vehicles. If your company has a DOT number, you also need to update your MCS-150 form every two years. Did you know that the last two digits of your DOT number tell you when you need to update the form? The last digit indicates the month, and the second-to-last digit indicates whether you update your form in even or odd years.

For example, if your DOT number ends in 53, the 3 means you need to submit the form by the last day of March, the third month of the year. The 5, being an odd number, means you need to update your form during odd-numbered years (2021, 2023, etc.).

Failing to update your MCS-150 form can deactivate your DOT number and result in fines of up to \$1,000 per day.

### Proof of DOT inspections

As I'll cover later, pre-trip inspections are crucial because they allow your drivers to identify potential violations, along with safety and maintenance issues. But pre-trip inspections aren't the only inspections your vehicles need. You're required to have annual DOT inspections performed on your vehicles and your drivers will need to be able to prove to law enforcement that the inspection actually took place.

Be sure your drivers know where their proof of inspection is located. I've seen several companies cited when there was a certificate right in the glovebox, and the driver just didn't know it was there. Sure, you can try to contest violations and have them taken off your FMCSA Safety Management System (SMS) score, but it's a lot easier to just avoid the citation up front. A little communication goes a long way.

### Pre-trip inspections

You can help reduce many of these violations by making sure your drivers perform pre-trip inspections. Beyond that, provide the tools they need to improve their overall awareness of the vehicle; even something as simple as a mirror mounted on the driveway can help, as they allow the driver to see the lights on the front and back of their truck or trailer as they leave the yard. That can mean the difference between a smooth, safe trip and being stopped by law enforcement for having a turn signal or other light out. That said, drivers still need to perform full walkaround inspections each morning. Provide routine training on vehicle inspections, and ensure all drivers have access to inspection checklists.



# *IT ALL COMES DOWN TO STAYING ORGANIZED AND INFORMED, AND PROVIDING YOUR EMPLOYEES AND SUBCONTRACTORS WITH PRACTICAL SAFETY INFORMATION AND ACTIONABLE STEPS.*

## **Load securement**

Losing something off a truck can cause equipment damage and lead to a serious traffic incident. The simple rule is that everything on or inside a CMV needs to be secured. That includes ladders on the rack, lumber, supplies in the back of the truck, gas cans, and any equipment you're hauling. Also, make sure to lower any accessories and restrain buckets or other attachments.

Everything should be secured for both length and weight. Use one strap or chain for every 10 feet of length and use an additional one if the items aren't up against a bulkhead. For example, a two-by-four cut to 10 feet 1 inch on a flatbed trailer with no front rail or bulkhead would need three straps:

- Two because it's longer than 10 feet.
- One more because it has nothing to prevent it from sliding forward.

The straps need to be rated to withstand at least 50% of the weight of the load. If you're hauling 4,000 pounds of supplies, the combined capacity of all the tiedowns should be at least 2,000 pounds. With limited exceptions, never use fewer than two tiedowns unless the object you're hauling is shorter than 5 feet and weighs less than 1,100 pounds.

Securing heavy equipment can depend on the weight, but the same 50% of the weight rule mentioned above applies. If the equipment is less than 10,000 pounds, comply with general freight guidelines. But keep in mind, if you're hauling something like a skid steer that's just under 10,000 pounds and only using two chains, be prepared to be stopped and ready to explain why you only used two chains, since most heavy equipment weighing in excess of 10,000 pound requires at least four chains.

## **Medical cards**

If your drivers cross the state line in a CMV, they'll need to have the same medical cards other CDL drivers are required to have. There's an exemption for drivers who only drive in the state of Wisconsin, but keep in mind that your business operations could change, and you don't want to get caught with outdated information or a lack of information altogether. Law enforcement is good at spotting out-of-state tags and recognizing when vehicles look like they might exceed that 10,000 GCVWR.

## **Hours of service**

Your requirements for keeping hours of service (HOS) records vary depending on whether your drivers cross state lines:

- If your drivers stay in Wisconsin, HOS rules don't apply until you hit the CDL weight requirement.
- If your drivers cross the state line, HOS rules apply to your CMVs.

Note: Your drivers could be exempt from HOS rules if the total trip is less than 150 air radius miles, but if they take a CMV across the state line and more than 150 air miles from the starting point to the final destination, the full HOS rules will apply.

## **SMS scores**


The FMCSA organizes their SMS data into seven Behavior Analysis and Safety Improvement Categories (BASICS). In my experience, the scores for maintenance and unsafe driving violations are where contractors tend to have the most issues. Keep an eye on your scores so you'll know if any are approaching the compliance review thresholds, a labor-intensive process that can have financial ramifications and require corrective actions.

I've even seen violations appear in states the contractors didn't work in. In some cases, we've found contractors who sold trucks and didn't remove the DOT numbers from the doors, or they shared a similar company name with a business in a different state. If you notice incorrect violations on your company's profile, seek corrections through the DataQs process.

## **Conclusion**

I get it. Complying with DOT regulations can sometimes seem overwhelming. But remember, the DOT isn't out in the field hoping to penalize hardworking, small business owners like you.

Many of these regulations were created after serious accidents involving large trucks, which prompted federal regulators to create a change and make our roads safer. It's a lot better to look at your compliance before your company is involved in a major claim than to wait until there is a big claim or citation.

It all comes down to staying organized and informed, and providing your employees and subcontractors with practical safety information and actionable steps. And as always, you can reach out to your business insurance provider or local experts with questions. As I've found in my years of experience in this role, fresh eyes can see things familiar eyes overlook. 

*Ken Alderden is a senior safety consultant for Sentry Insurance. Sentry is the exclusive insurance program of the ABC of Wisconsin. Visit [sentry.com](http://sentry.com) to learn more.*





# MENTAL HEALTH

■ ■ ■  
**IT'S PART  
OF YOUR  
OVERALL  
WELL  
BEING**

By Mary Kay Battaglia –  
National Alliance on Mental Illness (NAMI), Wisconsin

I have been asked what I think about adding mental health days to employees paid time off (PTO). National Alliance on Mental Illness (NAMI) Wisconsin advocates for mental health days because we believe mental health is a part of everyone's overall health. Separating mental health days as different from other health days concerns me. If you wake up with the flu or a bad cold, you will want to stay home, rest, and get better because you cannot focus on work. So, you call in sick. Honestly, your colleagues don't want you at work because you're useless. Similarly, if you find yourself in a state of anxiety or depression, unable to think clearly and cannot focus on work, you should call in sick. You are unable to do your job and your brain is ill. Your colleagues do not want you at work, especially if your lack

of focus creates a safety hazard. Businesses should not treat mental health differently than physical health, because your mental health is a part of your overall well-being. Employees should have a reasonable number of sick days that includes mental and physical illness. An illness is an illness. It doesn't matter if it's your stomach, your back, or your brain. If you are not feeling well, you should take time off to heal your body or mind.

What is mental health? Mental health is an individual's emotional, psychological, and social well-being. Just like physical health, everyone has mental health, which can be good or bad depending on stress, environment and social support. While physical health is easier to visualize, mental health can be more difficult to understand because it is



**THERE IS NO EASY TEST TO DETERMINE A MENTAL ILLNESS** and each person's typical physical and mental behaviors are unique but here are some common signs of mental illness: excessive worrying or fear, feeling excessively sad or low, confused thinking, problems concentrating and learning, extreme mood changes including uncontrollable highs and excessive lows, avoiding friend and social activities, difficulty relating to other people, changes in sleeping habits, eating habits, and feeling excessively tired and overuse of substances like alcohol and drugs.

often "invisible." Mental health is reflected in one's emotions, neurons and brain chemistry and it can be hard to evaluate. A person should check on his or her mental health just as one checks in on physical health.

Analyzing your mental health "thermometer" is one way to check in. Imagine a color thermometer where the top is flaming red and the colors fade to orange, then yellow and the bottom is a cool blue. If you evaluate your psychological well-being and you feel you are measuring at the top of the thermometer, flaming red, you will be unlikely to focus on your work to safely complete tasks, and may not be able to regulate your behavior. If you are hanging at the bottom in the cool blue area, you likely feel well, can get your work done and make positive behavior decisions. In your physical health, you do this all the time. You wake up, you feel your back pain and you decide if you are capable of getting through the day or if your back needs rest, heat or ibuprofen. Start measuring your mental health status just as you measure your physical health status.

What is the difference between mental health and mental illness? In much the same way a normally healthy person can develop a cough or an infection and get sick because of exposure to a virus, a normally healthy person can develop mental health condition brought on by stress, lack of social support, isolation or anxiety. Extended periods of poor mental health, living in the flaming red of the thermometer, can lead to disruptions in thinking and feeling, changes in mood and behavior and difficulty focusing or relating to others. Several serious mental illnesses have a genetic component or a neurological basis that has little to do with environment or stress but has to do with a person's biological construction. No matter the cause or origins of the mental illness, the best way to feel better is to ask for help, seek support and treat it like an illness. The good news is if treated properly and early, 80% of those diagnosed with a mental illness will get better. Many studies confirm the earlier those experiencing a mental health condition seek help, the quicker the recovery and the shorter the

***EIGHT OF 10 WORKERS WITH A MENTAL HEALTH CONDITION REPORT THAT SHAME AND STIGMA PREVENT THEM FROM SEEKING TREATMENT.***

#### **COMMON SIGNS AND SYMPTOMS OF DECREASED MENTAL HEALTH AT WORK:**

- Missing work often and unexpectedly, sometimes near deadlines or large projects
- Not following typical safety protocol
- Extreme fatigue
- Significant changes in sleep patterns
- Change in productivity and personality
- Increase in alcohol or drug use in or outside of the workplace
- Exhibiting anxious behavior sometimes with lack of eye contact
- Agitation, easily upset
- Change in personal appearance, weight gain or loss, change in hygiene
- Fear of losing their job or, lack of care about losing their job

NATIONAL ALLIANCE ON MENTAL ILLNESS

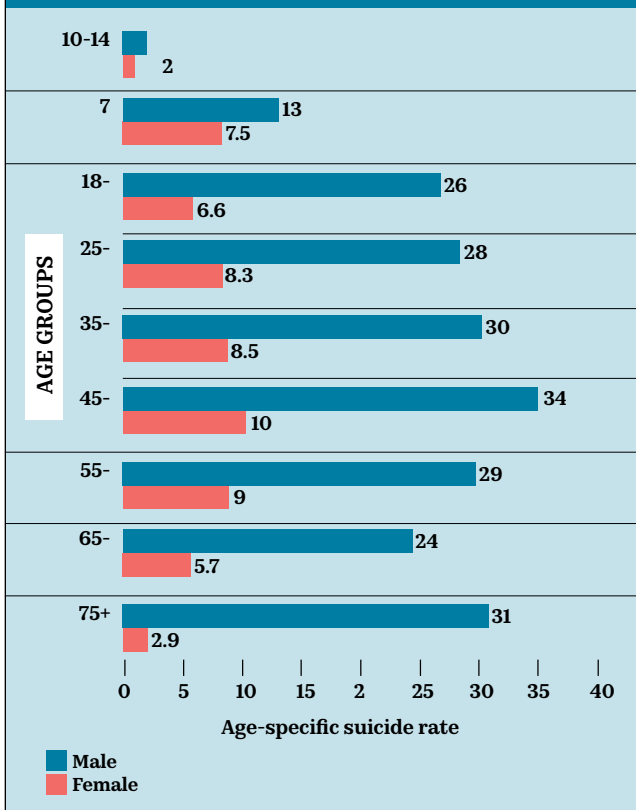
path to recovery. The key to mental health wellness is recognizing the signs, asking for help and getting the help you need early.

The consequences of not seeking help for your mental health conditions can be fatal. A large majority of mental illnesses are treatable but requires asking for help and learning positive self-coping skills, receiving therapy or taking medications. Many people struggling with a mental health condition do not seek out professional help and unfortunately use poor coping skills. Some examples of positive coping skills would include reading, painting, exercising, taking long walks or meditating. Tragically, many use negative coping skills that include self-sabotaging behaviors like drinking alcohol, taking illicit drugs, gambling or excessive spending of funds they do not have. Using negative coping skills leads to more problems and delayed recovery or healing.

The most tragic outcome of not seeking help to cope with mental illness is suicide. According to the Centers for Disease Control, the suicide rate for men working in the construction and extraction industries was 49.4 per 100,000 workers in 2016, making it the highest rate of suicide for any of the industrial classifications tracked by the CDC. The suicide rate for women working in the construction industry is lower than men but is much higher than the suicide rate for the general female population. Overall, the suicide rate in the construction industry is four times the rate of the general population and a bigger source of fatalities than all on-the-job causes. This loss of life is completely preventable and is such a tragic outcome to the families, co-workers and communities.



## SUICIDE RATES IN THE CONSTRUCTION INDUSTRY



Why are suicide rates so high in the construction industry? Demographics certainly plays a role. In Wisconsin, the highest rate of suicide is males 45-64, and 38% of construction workers in 2018 were between the age of 45-64. Other demographics that put construction workers at greater risk include dealing with an increase of temporary employment which decreases a strong community bond, unstable income security and lack of consistent health care coverage. Another contributing factor may be the higher levels of opioid abuse that has been reported in the construction industry. Individuals experiencing opioid abuse have a 75% increase in suicide attempts and males with an opioid use disorder are twice as likely and women eight times as likely to fall

victim of suicide. Not to mention a male dominant culture that “stigmatizes” mental health. Other male dominant careers where we see a high rate of suicide include law enforcement, farmers and veterans. Mental illness may be viewed as a weakness, a lack of toughness or due to historical cultural images of mental illness; they may be afraid of how they will be viewed if seeking treatment for a mental illness. Eight of 10 workers with a mental health condition report that shame and stigma prevent them from seeking treatment.

Mental health and stigma reduction is an area organizations and companies should pay attention to if production and financial return is meaningful to their strategic plan. Mental health conditions are the leading cause of disability across the United States and untreated mental health conditions cost the U.S. economy \$200 billion in lost earnings each year through decreased work performance and productivity. This decrease could be eliminated if mental health were a focus in the workforce.

One silver lining of the recent COVID-19 pandemic is the increased conversation about mental health. Athletes, royal family members, celebrities and corporate leaders are all speaking up about their mental health. These conversations are happening in the board rooms and at kitchen tables. The increased conversation about mental health is reason for celebration. If we can decrease the stigma of mental illness, we can eliminate one of the greatest barriers of getting people to a better state of mental health.

Mental illness is not a rare condition. Twenty percent, or one in five people, live with a mental illness (one in 25 lives with a serious mental illness, which is described as those living with bi-polar disorder or schizophrenia). The other four out of five people will know someone living with a mental illness. Mental illness is a condition that affects the entire family. There should be no shame, stigma, or barriers to seeking out mental health care. [Wisconsin](https://www.wisconsin.gov)

*Mary Kay Battaglia is Executive Director of NAMI Wisconsin. NAMI is an organization that helps support those living with a mental illness and their families through support groups, classes and individual support. If you are concerned about your mental health, please ask for help. If you are concerned about your loved one's mental health, ask if they need some help. If you would like more information or support on how to take care of yourself or your loved one, please go to our website: [www.namiwisconsin.org](http://www.namiwisconsin.org) or give us a call 608-268-6000.*

## THE NATIONAL SUICIDE PREVENTION LIFELINE, AVAILABLE 24/7: 1-800-273-8255 (TALK)

- Veterans Crisis Line press 1, or send a text message to 838255
- Deaf or Hard of Hearing use video relay or voice/caption at main number, or for TTY dial 1-800-799-4889
- En Español, Nacional de Prevención del Suicidio: 1-888-628-9454

The National Suicide Prevention Lifeline can also be contacted through Lifeline Chat.

A list of Wisconsin county crisis lines can be found at: [www.preventsuicidewi.org/county-crisis-lines](http://www.preventsuicidewi.org/county-crisis-lines)

In the years before 2020, site communication was a simple conversation. It was easy to notify crew members where the contractor parking was, brief them on daily activities and squeeze in tool box talks. Fast forward to the year 2021 and look at the new layers of communication our crews in the field need to overcome each day. Challenges brought on by the pandemic can have the opportunity to distract crews from proven best practices. So how can we get back to basics and also layer on the protections necessary to cover more modern job site intricacies? By re-focusing on the most important part of site communication; the safety of our people. Best practices like daily huddles, tool box talks, site safety inspections and job safety analysis have proven to be the best ways to keep our crews safe and informed. Here are some ways to make sure that's not lost in the curve balls that 2020 and 2021 have thrown our way.



By Russ Tabaka –  
Gilbank Construction, Inc.

Daily huddles should be the start of every day on the job site. This is a brief (10-15 minutes at most) meeting that allows the crew time to cover relevant safety topics or hazards, review yesterday's progress, delegate today's activities and introduce new activities to the work site. Some daily huddles include stretch and bend routines, many of which are carried out in multiple languages. This is a great time to introduce new employees to the site as well as new sub-contractor crews. Take time to focus on the basics (parking, unloading, break areas, restrooms, meeting areas, etc.). If there are any scheduled inspections or owner visits, a daily huddle is a good time to communicate this information. Other items that can be reviewed are general site housekeeping and job site cleanliness. As an example, it can be helpful to coordinate your excavation and concrete crews of overlapping activities. In early stages of a project, it is not uncommon for site balance to take place at the same time as foundations are poured. Spending time during a daily huddle to coordinate these activities may avoid miscommunication as to where a concrete truck can be deployed, and site spoils can be stored. In the last couple years, we have seen the introduction of temperature checks along with pandemic-related questionnaires. If a daily huddle practice is implemented on the job site these sorts of medical screenings become a very normal part of a contractor's day.

Another layer in good site communication is to dedicate a time period to review tool box talks. These are specific discussions that revolve around safety awareness. Most times these are brief discussions but prove to be very informative on topics such as specific tool/equipment safety, PPE use, emergency medical information, trade specific safety practices or environmental hazards. A good example of an environmental hazard could be reviewing the signs of heat stroke and the importance of hydration in the late summer months. Likewise in the winter it is also critical to review hydration along with signs of early frostbite. Trade-specific talks may include reviewing best practices for crews to understand work clearances around overhead electrical lines. If there is a constant reminder happening on site for crews to wear hard hats or safety glasses, it could be necessary to review the importance of that type of PPE. A toolbox talk is a great way to hammer home the PPE requirements of a job site.

Often overlooked with toolbox talks is the camaraderie it can build among the work crews. Encouraging a superintendent to rotate the presenter each week will help employees buy in to the methodology behind why toolbox talks are so important. Often, if employees know that they will have their turn in presenting a talk they may even suggest a specific topic they would like to learn more about. Interest in the specific topics discussed builds strength in a crew's safety culture. Seeking out what specific topics a crew is interested in learning about will help ensure the commitment to this practice.

Because construction was considered essential since the start of the pandemic, new challenges were presented to crews in regard to keeping up on current preventative measures to slow the spread of COVID-19. Even today legislation continues to evolve. Understanding the new “hot spots” (states or areas with a higher frequency of cases) had the tendency to shift almost daily. Proper cleaning of meeting areas, vaccination status and the latest symptom monitoring are just a few examples of regulations that continue to be moving targets. Many times, construction crews were getting the guidance from their job sites. It is beneficial to spend at least one out of every four toolbox talks on reviewing the latest legislation.

Site safety inspections will cement the importance of a “safety-

first” job site. Inspections like this can be posted and used as a housekeeping checklist to be reviewed by key personnel. Inspections on equipment can be related to verifying hose connections on lifts to visual inspections of forks on a telehandler. These are not in replacement of regularly scheduled pre-operation inspections; a line item on a site safety inspection may include a review that pre-operation inspections are taking place prior to

operation of a piece of equipment. Other inspection items may include an audit of extension cords. Verifying proper connection or checking cords for damaged jackets can become a problem if not addressed quickly. Cater inspection reports to job site requirements. These may change depending on if a project is new construction versus a renovation of an existing space.

In relation to the pandemic requirements, site safety inspections may include verifying that COVID-19 preventative items are stocked. Items like hand sanitizer may run out at different frequency depending on the crew size. Making sure that masks are on hand is critical in helping reinforce the crew’s sense of safety even if there is no masking requirement on site. Cleaning inspections may be necessary for

meeting areas. And one last item that may seem obvious, but is often forgotten, is to verify that digital thermometers have good batteries and are functioning properly. An inoperable thermometer is not something to neglect, as it is the first line of defense


in helping to prevent an outbreak on a job site and provide early signs on symptoms possibly present in crew members.

While not as frequent as the daily huddles, toolbox talks, or site safety inspections, are job safety analysis (JSAs). JSAs are an important way to forecast new job site hazards that will be introduced into the construction schedule. A good example of this may be when a project is wrapping up and interior crews may be painting while a concrete crew is outside finalizing a sidewalk pour. Both crews are informed of their specific trade related hazards but may not be aware of other trades’ specific task-related hazards. By posting these forecasts in the job meeting area (be it a job trailer or construction office) crews can stay informed of ancillary activities. Share the updated JSAs at daily huddles and use new hazard notices to round out topics for toolbox talks.

In a practical application related to COVID-19, JSAs have been used on school campuses that have opened their doors to COVID-19 testing sites. It is important to communicate to active construction crews when sites like these have opened, most often at educational, public and medical facilities. A parking lot that may have been available for deliveries the week prior could now be used for mobile testing sites. JSAs are a great way to communicate and post updates along the project schedule.

Utilizing these best practices can help in developing new leaders in construction crews. Under the guidance of a superintendent, it is encouraged to task some of these activities to developing members of your crew. Place a new apprentice in the role of gathering the crews for daily huddles. Rotate presenters on toolbox talks and encourage employees to suggest ideas for future talks. Task an assistant superintendent with ensuring that weekly site safety inspections are filled out. Allow that individual to communicate with supply chains or maintenance to ensure that the proper restocking or maintenance is performed based on the result of the site safety inspection. Work with junior PMs to develop JSAs based off of a construction schedule. These practices build the safety culture from the inside of the crews instead of a top-down approach from management. Incentivize buy in to these practices by tracking these additional activities within an employee’s annual review.

Staying ahead of the crew’s safety needs is always the best defense to preventing an accident. With enough repetition of these practices, it will build the confidence in a company’s customers, upper management, and most importantly, field personnel so production and safety go hand in hand with your successful projects. Overall, the pandemic continues to evolve causing new challenges to be handled by companies and their field personnel. Being considered essential in the early stages of the pandemic ensured a sense of security in the construction industry about construction jobs.

Site communication is not a skill that comes easily. It can be a challenging task to juggle if it is not treated as a top priority. However, it can be accomplished if crews are dedicated to a safety culture mindset. Hopefully, this article helps to inspire some creative ways of implementing site communication. While the guidance continues to change, it is important to keep site implementation simple and brief. A strong safety culture will allow for the flexibility needed to adjust to the latest guidance on the pandemic. Stay creative, stay safe and be well! 



***STAYING  
AHEAD OF  
THE CREW’S  
SAFETY  
NEEDS  
IS ALWAYS  
THE BEST  
DEFENSE TO  
PREVENTING  
AN ACCIDENT.***



# THE HEAT STRESS INITIATIVE CONSTRUCTION CAN DO BETTER

Dan Trocke – WisCon Onsite Safety and Health Consultation Program

## WHY A HEAT-RELATED ARTICLE IN NOVEMBER YOU MIGHT ASK? GOOD QUESTION. THIS KIND OF INITIATIVE REQUIRES PLANNING.

We still have some time before next summer to put training and procedures in place to keep our workers safe [and November is the safety issue of the *Merit Shop Contractor* magazine]. In the construction industry from 2011 to 2019, there have been an average of 13 heat-related deaths and 567 severe cases with lost days per year. This is more heat-related fatalities and illnesses than in any other industry. This is especially true for road construction, roofing, but also other construction involving outdoor work such as landscaping. We have to do better, and can do better, and I hope to touch on how for you in this article.

I also want the readers to be aware of the new Heat Initiative Memo from OSHA that was signed Sept. 1, 2021 that expands on the heat campaign OSHA launched in 2011. The initiative is intended to prioritize inspections of complaints, referrals and reports of heat illness as well as the potential to expand the scope of other programmed or un-programmed OSHA inspections to include heat hazards. The Heat Initiative scope includes elements that are proactive instead of reactive in their approach. It applies to both indoor and outdoor worksites. It establishes trigger “Heat Priority Days” when the heat index exceeds 80 degrees Fahrenheit. It also provides citation guidance to OSHA enforcement. I encourage you to read the full memo here: <https://www.osha.gov/laws-regs/standardinterpretations/2021-09-01>

Understanding what is the heat index is crucial to understanding how dangerous the heat can be to work in that day. We’ve all heard the old saying, it’s not the heat, it’s the humidity. Actually it’s both. The heat index is a measure of how hot it really feels when the relative humidity is factored in with the actual air temperature. This has important considerations for the human body’s comfort while working. When the body gets too hot, both the exertion itself and the air temperature and humidity can increase your core body temperature. To help cool itself, your body begins to perspire or sweat and sends more blood to circulate through your skin to cool itself off. High humidity sabotages this body defense, preventing the cooling effect of sweat evaporating from your skin. This has a profound effect on how we experience

hot weather. For example, if the air temperature is 96°F and the relative humidity is 65%, the heat index (how hot it feels) is 121 degrees F. How hard and how long are you willing to work in 121 degree weather? We all need to understand that this can be extremely dangerous.

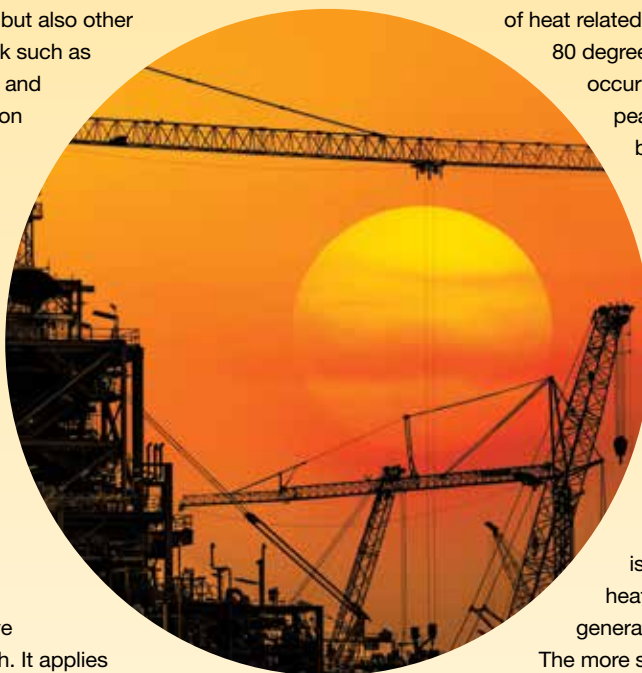
But when does heat index start becoming a concern? That would coincide with OSHA’s trigger Heat Priority Days when the heat index exceeds 80 degrees F, when we need to start using caution working in these conditions and above. Analysis

of heat related fatalities begins with a heat index of 80 degrees F. Approximately 10% of fatalities occur between 89 to 91 degrees F and peaks with 45% of fatalities occurring between 91 to 103 degrees F. Between 103 to 115 degrees F caused an additional 40 percent of the fatalities. It could be surmised that recognizing the danger becomes easier at these more extreme heat index temperatures. Like every other hazard, it seems the less likely we are to recognize it, the more dangerous it becomes.

But wait, there’s more. Another important concept we have to acknowledge is Heat Stress, which is the product of both environmental heat and metabolic heat. Human bodies generate metabolic heat even on cool days.

The more strenuous the activity, the more metabolic heat is generated. Relying on just the heat index alone would be ignoring another primary risk factor. Even normal summer temperatures when coupled with high exertion can result in heat stress illness and fatalities. A successful heat safety program needs to include recognizing heat stress for different types of work. Work categories should be based on how much of the body is involved in the work, at what pace, and for how long. Intense arm, trunk and leg work such as carrying, shoveling, pushing and pulling heavy loads or walking at a fast pace would be heavy work heat stress examples.

The good news is we can do better as an industry if workers and management both recognize the hazard of dangerous heat conditions. It starts by adopting the latest tools available to us to tell us the heat index in real time and having a plan in place to do the work safely with trained persons responsible to monitor the heat index. These individuals would be authorized to initiate procedures and changes in the work place, to take a proactive approach and make changes before people start reporting ill.



### Taking precautions

While other online tools, charts and weather services exist that will help us understand heat index in real time for our area, one I want you to be aware of is a heat safety mobile app developed by NIOSH and OSHA that uses temperature and humidity to measure heat index values. The app is recently updated and available for your phone and is intended to be a resource for outdoor workers exposed to heat on the job. The OSHA-NIOSH Heat Safety Tool is a useful resource for planning outdoor work activities based on how hot it feels throughout the day. The app helps evaluate the immediate risk conditions to workers for their area and provides necessary precautions for current conditions. It features real-time heat index and hourly forecasts, specific to your location, as well as occupational safety and health recommendations from OSHA and NIOSH.

### The OSHA-NIOSH Heat Safety Tool features:

- A visual indicator of the current heat index and associated risk levels specific to your current geographical location.
- Precautionary recommendations specific to heat index-associated risk levels.
- An interactive, hourly forecast of heat index values, risk level, and recommendations for planning outdoor work activities in advance.
- Editable location, temperature, and humidity controls for calculation of variable conditions.
- Signs and symptoms of heat-related illnesses including: heat stroke, heat exhaustion, rhabdomyolysis, heat cramps, and heat rash.
- First aid information for heat-related illnesses.

The OSHA-NIOSH Heat Safety Tool is available to download at Google Play.

### Heat Illness Prevention Plan

Employers with crews working during high heat index conditions should plan ahead to protect workers by creating a Heat Illness Prevention Plan to address working during these conditions. If the conditions under which the employees are working pose heat stress hazards, the employer needs to evaluate such hazards and determine what appropriate action needs to be taken while still protecting the employees from inherent hazards of the work or environment. Important elements to consider when creating the heat plan are:

- Who will provide oversight on a daily basis? Some body both trained and with authority.
- How will new workers gradually develop heat tolerance? New workers are at high risk of heat stroke with 70% of fatalities happening during their first week.
- Temporary workers may be more susceptible to heat and require closer supervision.
- Workers returning from extended leave (typically defined as more than two weeks) may also be at increased risk.
- How will the employer ensure that first aid is adequate and the protocol for summoning medical assistance in situations beyond first-aid is effective?
- What engineering controls and work practices will be used to reduce heat stress?
- How will heat stress be measured?
- How to respond when the National Weather Service issues a heat advisory or heat warning?
- How will we determine if the total heat stress is hazardous?

It shouldn't take four days with no power, water, or communication to find out who your friends are.



**BUT  
SOMETIMES  
IT DOES.**

And that's the Silver Lining®.

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For the name of an agency near you, visit [thesilverlining.com](https://thesilverlining.com).



• What training will be provided to workers and supervisors?  
**Supervisors and those monitoring and implementing the plan need proper training to:**

- Identify and control heat hazards;
- Recognize early symptoms of heat stress;
- Administer first aid for heat-related illnesses; and
- Activate emergency medical services quickly when needed.

Employers and workers should know the methods of abating heat stress hazards in workplaces and the simple but critical steps they can take to prevent heat-related illness and death. A few of the elements that an employer's policy should include are:

1. Permitting workers to drink water or cold liquids (e.g., sports drinks) at liberty and scheduling frequent water breaks. Encourage employees to drink small amounts of cool water (approximately 4 to 6 ounces) every 15 to 20 minutes, but no more than 1 quart/hr. and 12 quarts/24 hours;
2. Implementing a work/rest regimen in accordance with the American Conference of Governmental Industrial Hygienists (ACGIH) heat exposure Threshold Limit Values so that exposure time to high temperatures and/or the work rate is decreased. Providing shade and ample time to rest. Rescheduling work during the cooler periods of the day (e.g., early morning and/or in the evening);
3. Developing a heat stress program which incorporates the following:
  - Provide a training program informing all employees about the health effects of heat stress, how to recognize the symptoms of heat stress and methods of preventing heat induced illnesses;

- A screening program to identify health conditions aggravated by elevated environmental temperatures;
- An acclimation program for new employees or employees returning to work from absences of three or more days by gradually increasing workloads and allowing more frequent breaks. Workers new to the heat can be the most vulnerable.
- Specific procedures to be followed for heat-related emergency situations; and
- Provisions that first aid be administered immediately to employees displaying symptoms of heat-related illness. [ABC Wisconsin](https://www.osha-slc.gov)

More information is available at OSHA's website at: <https://www.osha.gov/heat-exposure> as well as other excellent resources on the website including OSHA's Technical Manual on Heat Stress available at: <https://www.osha.gov/otm/section-3-health-hazards/chapter-4> to help employer's develop their heat related illness program, understand the health hazards, identify tools available to prevent heat illness, assess heat hazards including adjusting for heat index, heat stress from metabolic heat and clothing factors, etc. Don't wait for summer to start shaping your procedures and training to beat the heat.

Dan Trocke is a Consultant working the last five years for the WisCon Onsite Safety and Health Consultation Program. WisCon is a free small business assistance program available to employers on request in the State of Wisconsin.

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- No. Copies of Single Issued Published Nearest to Filing Date: 50
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 Average No. Copies Each Issue During Preceding 12 Months: 1,134
- No. Copies of Single Issued Published Nearest to Filing Date: 1,134
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## SEPTEMBER 2021

### • Daaxit

*Aaron Mills*  
1517 Swallow Road  
Twin Lakes, WI 53181

**Phone:** 262-176-8484

**Description:** Associate - Financial Consulting

**Sponsor:** Sam Daniels, Daniels General Contractor

Beam Club Members-to-date: 2.5

### • Sun Mechanical

*Ronak Patel*  
116 Commercial Drive  
Janesville, WI 53548

**Phone:** 608-931-6066

**Description:** Mechanical Contractor

**Sponsor:** Russ Tabaka, Gilbank Construction, Inc.

Beam Club Members-to-date: 1.5

### • Vincent Urban Walker and Associates

*Brandon Nowak*  
300 Dousman St.  
Green Bay, WI 54303

**Phone:** 920-432-7246

**Description:** Associate - Insurance

**Sponsor:** Amber Anderson, Aerotek, Inc.

Beam Club Members-to-date: 3

## OCTOBER 2021

### • Baker Glass, LLC

*Jordan Struck*  
N1806 U.S. Highway 12  
Fort Atkinson, WI 53538  
**Phone:** 920-563-5154

**Description:** Glass and Glazing Contractor

**Sponsor:** Russ Tabaka, Gilbank Construction, Inc.

Beam Club Members-to-date: 2.5

### • Baraboo Tent & Awning, Inc.

*Andy Moon*  
1111 Walnut St., P.O. Box 57  
Baraboo, WI 53913

**Phone:** 608-356-8303

**Description:** Awning, Canopy and Fabric Structures

**Sponsor:** Dan Bertler, Supreme Structures

Beam Club Members-to-date: 51

### • Bolder Services, LLC

*Joe Rockett*  
P.O. Box 522  
Baraboo, WI 53913

**Phone:** 608-253-2337

**Description:** Mechanical Contractor

**Sponsor:** Jack Vogel, Hill's Wiring, Inc.

Beam Club Members-to-date: 13

### • E. C. Merrill, Inc.

*Jay Merrill*  
809 Wisconsin Ave.  
N. Fond du Lac, WI 54937

**Phone:** 920-235-3600

**Description:** Mechanical Contractor

**Sponsor:** Patrick Donovan, Northcentral Construction Company

Beam Club Members-to-date: 3

### • EquipmentShare

*Jason Funk*  
11721 W. Carmen Ave.  
Milwaukee, WI 53225

**Phone:** 414-208-5280

**Description:** Equipment Supplier

**Sponsor:** Russ Tabaka, Gilbank Construction, Inc.

Beam Club Members-to-date: 3.5

### • Ideal Midwest

*Bryce Nass*  
121 Mill St.  
Clinton, WI 53525

**Phone:** 608-208-5273

**Description:** Sitework Contractor

**Sponsor:** Kevin Day, Corporate Contractors, Inc. (CCI)

Beam Club Members-to-date: 16

### • Patriot Builders of Wisconsin

*Kyle Freeman*  
204 Moravian Valley Road, Ste. L  
Waunakee, WI 53597

**Phone:** 608-481-1715

**Description:** General Contractor

**Sponsor:** Cole McCloskey, The Electrician, Inc.

Beam Club Members-to-date: 1

### • Ruhland Law and Strategy LLC

*Lane Ruhland*  
215 S. Century Ave. #198  
Waunakee, WI 53597

**Phone:** 608-291-7504

**Description:** Associate - Law Firm

**Sponsor:** Amber Anderson, Aerotek, Inc.

Beam Club Members-to-date: 4

### • Stone Pro, LLC

*Gerald Manning*  
1101 W. Clairemont Ave., Ste 1F  
Eau Claire, WI 54701

**Phone:** 715-514-1113

**Description:** Concrete/Masonry Contractor

**Sponsor:** Jim Bunkelman, Royal Construction, Inc.

Beam Club Members-to-date: 9

### • Triple L Cleaning, LLC

*Lori Laxton*  
P.O. Box 663  
Holmen, WI 54636

**Phone:** 608-399-4514

**Description:** Contractor Member

**Sponsor:** Brian Wieser, Wieser Brothers General Contractors

Beam Club Members-to-date: 52.5

### • West Allis Blue

*Randy Steinberg*  
2063 S. 116th St.  
Milwaukee, WI 53227

**Phone:** 414-321-1422

**Description:** Associate - Printing/Copying

**Sponsor:** Jay Zahn, Hausmann Group

Beam Club Members-to-date: 53

### • Wide Effect Talent Solutions

*Mike Christiansen*  
830 N. Highway 83  
Hartland, WI 53029

**Phone:** 262-298-0026

**Description:** Associate - Staffing Agency

**Sponsor:** Eric Messer, The Starr Group

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