

Fed/OSHA Vaccine Mandate (ETS) is Blocked...Now What?

January 20, 2022
Webinar: 8:30 – 9:30am

Hosted by:

Cassandra Fullerton, Customer Success, ESM
Abe Jabhan, VP, Claims Advocacy, ESM
Anthony Poston, Risk Manager, ESM
Jennifer Lippi, Sr. HR Consultant, Silvers HR

CORONAVIRUS
BREAKING
NEWS

PRESENTERS



JENNIFER LIPPI
JD, SPHR, PHRCA

SR. HR CONSULTANT



CASSANDRA FULLERTON

CUSTOMER SUCCESS



ABE JABHAN
JD, MBA

VP, CLAIMS ADVOCACY



ANTHONY POSTON
ARM, AIM

CEO / RISK MANAGER



Presentation Housekeeping



CA-CENTRIC



SAFETY / OSHA
COMPLIANCE



FRAMEWORK FOR COVID
RISK MANAGEMENT



FOLLOW-UP ON Q&A
FROM EMPLOYERS

Today's Topics

1. COVID-19 Fed/OSHA ETS Update (Supreme Court Decision)
2. California ETS Updates as of January 14th
3. Developing your 2022 risk management plan and how to leverage technology
4. Utilizing your Risk Management results to obtain credits on your Work Comp premiums

Sees Candy COVID-19 Case

- Workers' Compensation has always been the exclusive remedy for injuries or illness that are work related. This "exclusive remedy" benefits employees with a no-fault system and immediate, legislated benefits. It protects the employer from expensive and unlimited civil suits.
- **This new See's Candies changes that. This case now sets precedence.**
- A See's EE got COVID, took it home and gave it to her husband, who died. She filed a wrongful death claim and the Appeals Court said they agreed.
- The same scenario may also be considered under Coverage B of your Workers' Compensation policy.
- Employers who comply with the regs and document their activities and results before any incident, will be in a better position to defend future lawsuits.
- Takeaway:
 - Document everything related to compliance, employee engagement, trainings, etc.
 - Talk with your team, where can you improve your documentation efforts?

Case Reference [HERE](#)

Vasquez: See's Candies: The Unwitting Supplier to Forrest Gump

By David R. Vasquez

Thursday, January 13, 2022 | 0

According to Forrest Gump, "Life is like a box of chocolates — you never know what you're gonna get." See's Candies recently learned that lesson, as explained on Dec. 21, 2021, by the California Court of Appeal.

The California Court of Appeal, 2nd Appellate District, certified for publication the case of See's Candies Inc. v. Superior Court (Ek). The holding in this opinion is worthy of careful consideration by all California employers. It implicates their potential liability for civil, personal injury damages to third parties, arising from work-related infections. In this case, the infection was of the COVID virus, which is now prevalent throughout California.

To put the See's holding in proper context, since 1917 California law has held that when an employee suffers a work-related injury, that employee's exclusive remedy is, with very few exceptions, a claim for workers' compensation benefits against the employer. Such a claim entitles the employee to reasonable compensation for medical expenses, as well as limited compensation for any temporary and permanent impairment to resuming work at full, pre-injury capacity. However, this rarely compensates an employee's full loss of past earnings or loss of future earnings.

The "workers' compensation bargain" this law struck entitles employees to these remedies without having to prove any fault on the part of the employer for having caused an injury or illness. In exchange, however, California employers gained immunity from potentially very large liabilities for civil personal injury damages, which often include an award for the injured person's pain and suffering, full loss of earnings and even punitive damages in cases of outrageous misconduct.



David R. Vasquez

SB 606

Signed into law September 27, 2021, radically increases Cal/OSHA's enforcement power.

Went into effect January 1, 2022

Creates two new violation categories: **Egregious & Enterprise-Wide**

Fines can be up to **\$124,709 per violation**

EGREGIOUS.

1. The employer, intentionally through conscious, voluntary action or inaction, made no reasonable effort to eliminate a known violation;
2. Violations resulted in worker fatalities, three or more hospitalizations, or a large number of injuries or illnesses;
3. Violations resulted in persistently high rates of worker injuries or illnesses;
4. An employer has an extensive history of prior violations;
5. An employer has intentionally disregarded its health and safety responsibilities;
6. An employer's conduct amounts to clear bad faith in the performance of its duties; or
7. An employer has committed a large number of violations so as to undermine significantly the effectiveness of any safety and health program that may be in place.

ENTERPRISE WIDE.

Creates a rebuttable presumption that a health and safety violation by an employer with multiple worksites is enterprise-wide if either of the following is true:

1. The employer's written policy or procedure violates Cal/OSHA regulations; or
2. Cal/OSHA has evidence of a pattern or practice of the same violation committed by the employer at one or more of its worksites.

If an employer is unable to rebut the presumption, Cal/OSHA may issue an enterprise-wide citation with penalties up to a maximum of \$124,709 per violation.

OSHA ETS Updates & Vaccine Mandate



As of January 14, 2022

FED/OSHA ETS Overview

Background:

- Many unvaccinated (against COVID-19) employees in the U.S. pose a “grave danger” to exposure in the workplace
- An ETS is needed for protection using the “most effective and efficient workplace control available,” which is vaccination.

Purpose:

- “Establish minimum vaccination, vaccination verification, face covering and testing requirements to address the grave danger of COVID-19 in the workplace”
- Prevent state and local laws from limiting employer authority to require vaccinations, face covering and/or testing

Legal Status of the ETS – What Happened?

- Federal Appeals court blocks implementation of OSHA's Mandate or Test Emergency Rule on November 12th.
- On December 17th, a 3-judge panel in the 6th Circuit lifted the stay order, reinstating the ETS.
- The Supreme Court heard oral arguments on January 7th, and issued a decision on January 13th of 2022, putting a hold on the broad mandates from Fed/OSHA's ETS for large employers pending further review from the 6th Circuit Court of Appeals



The Supreme Court's decision does not prohibit employers from requiring that some or all of their employees be vaccinated, subject to exceptions based on medical and religious accommodation under applicable federal and state law. However, in the absence of the Federal ETS, which pre-empted contrary state laws, employers must check applicable state laws. Several states have already adopted restrictions or prohibitions against employer vaccine mandates (e.g., FL, TX)

FED/OSHA vs. "State Plans"

- The federal government can largely enforce safety rules against private employers only in 29 states plus the District of Columbia and other American territories (e.g., subject to exceptions like federal worksites/military bases/navigable waters in other states). The remaining 21 states have approved "state plans," where a state agency enforces safety regulations in that jurisdiction.
- The CAL/OSHA ETS has been in effect since November 30, 2020, which was extended on December 16, 2021, with clarification and updates on January 14, 2022.

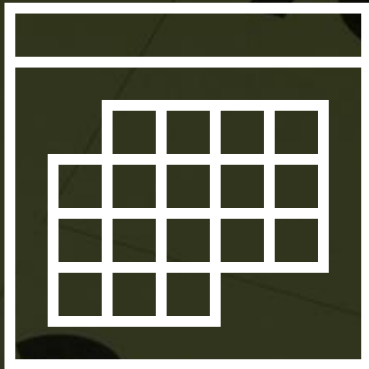
CAL/OSHA ETS Requirements

- Establishing, implementing, and maintaining an effective written COVID-19 Prevention Program.
- Providing effective training and instruction to employees on the employer's prevention plan and their rights under the ETS.
- Providing notification to public health departments of outbreaks.
- Providing notification to employees of exposure and close contacts.
- Requirements to offer COVID-19 testing after potential exposures.
- Requirements for responding to COVID-19 cases and outbreaks.
- Isolation and exclusion pay requirements.
- Basic prevention requirements for employer-provided housing and transportation.

CAL/OSHA ETS Recent Changes

- Some definitions were revised (COVID-19 test, face coverings, fully vaccinated)
- Employers must make COVID-19 testing available to fully vaccinated employees after close contact (previously exempt)
- Updated timeframes for return to work
- Masking and physical distance requirements for fully vaccinated, if not able to test after close contact
- Outbreak testing requirements update – must make testing available on a weekly basis – regardless of vaccination status (twice a week if there is a "major outbreak")
- When in employer provided transportation, fully vaccinated employees are no longer exempt from face coverings.

Timeframes

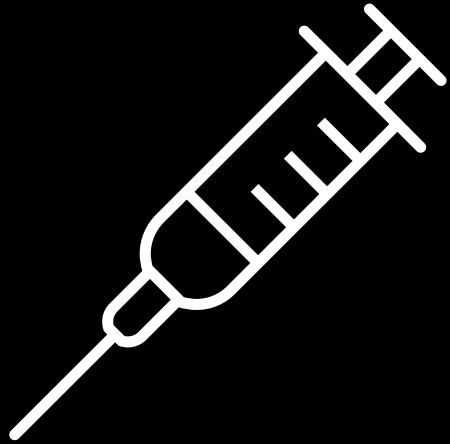


The latest CAL/OSHA ETS update is effective from January 14, 2022 through April 14, 2022

Cal/OSHA can issue citations for employers who do not implement the revised provisions by January 14th

The CAL/OSHA ETS has been in effect since November 30, 2020, which was extended on December 16, 2021, with clarification and updates on January 14, 2022.

Vaccine Compliance



1. Check local health department/CDPH and industry-specific guidance
2. Mandates may still be implemented, with some exceptions such as religious or medical, unless in a State that prevents them (e.g., TX, FL)
3. Vaccination Documentation & Recordkeeping required

EEOC Reference [HERE](#)

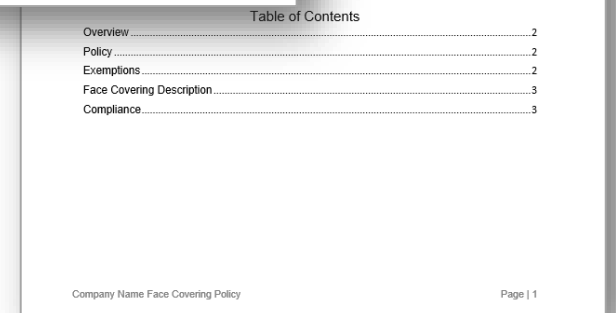
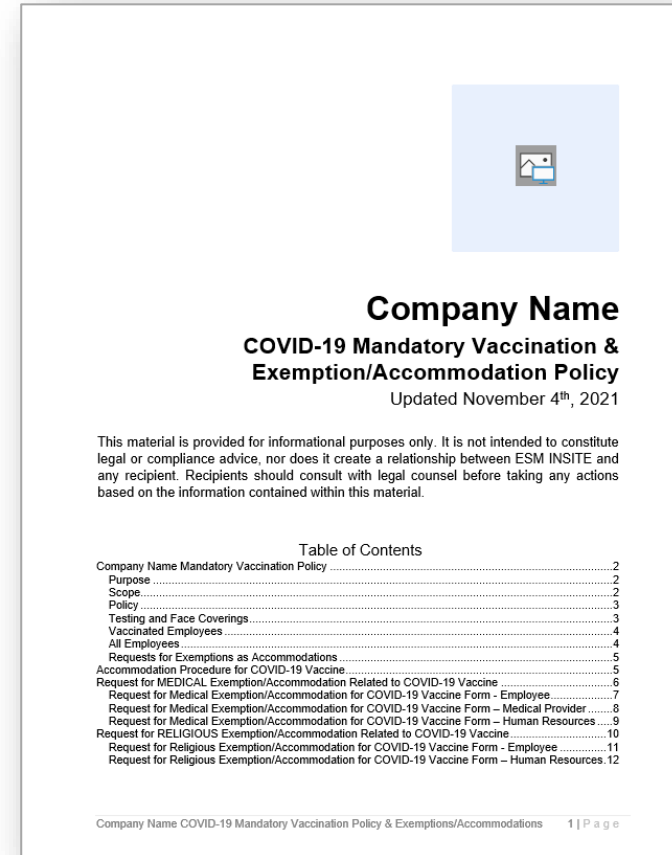
Vaccination Policy

- Verify vaccination status of each employee.
- If an employee fails to do so, they are treated as unvaccinated.
- Preserve accepted proof of vaccination and roster of each employees' vaccination status.
- Maintain them as if they are medical records (legal requirements).



Paid time for each vaccination series dose, including travel time, if requiring employees to be vaccinated

<https://myvaccinerecord.cdph.ca.gov/>



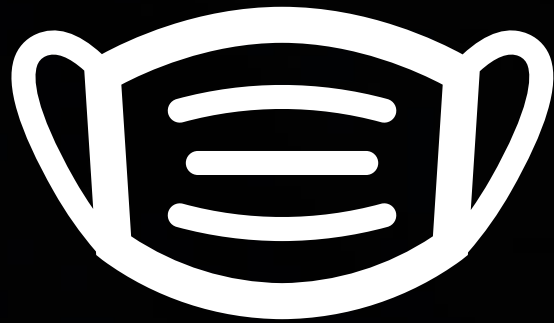
TESTING



Employers must offer testing at no cost to employees during paid time to:

- Symptomatic unvaccinated employees, regardless of whether there is a known exposure (not changed).
- All employees regardless of vaccination status, who have had close contact with a COVID-19 case, except for recently recovered employees.
- All employees, except for recently recovered employees, regardless of vaccination status, in an outbreak or a major outbreak.
- When following CDPH's Isolation and Quarantine Guidance to keep employees working or return them sooner, if tested.

Face Coverings



Face coverings are required indoors and in vehicles for unvaccinated employees. Regardless of vaccination status, employees in certain indoor settings must wear a face covering if required by CDPH order or if they are a passenger in employer-provided transportation.

CDPH currently requires face coverings in all indoor workplaces and other indoor public settings, regardless of vaccination status. Most common exceptions to wearing face coverings indoors:

- When alone in a room or vehicle;
- When eating and drinking;
- When an accommodation is required; and
- When job duties make a face covering infeasible or create a hazard.

Isolation, Quarantine & Return to Work

- If an employee is exposed to a COVID-19 case (Day 0), the following quarantine guidelines apply:
- Employees who are **FULLY VACCINATED & BOOSTED** (or not yet booster eligible) you **DO NOT** need to quarantine if asymptomatic.
Wear a mask for 10 days since your close contact and watch for symptoms.
 - Get tested at least 5 days after
 - If testing positive, follow isolation instructions.
- If you are **NOT VACCINATED or NOT BOOSTED BUT ELIGIBLE**, you **MUST** quarantine.
 - For at least five days and monitor symptoms.
 - Get tested at least 5 days after close contact (even if asymptomatic).
 - Return to work once all symptoms have improved and have a negative test (or 10 days if no test), wear a mask.
- Employees who **TEST POSITIVE** for COVID-19 must be excluded (Isolate) from the workplace for at least 5 days. An employees may return to the workplace after day 5 if symptoms are not present and test negative. Continue to wear a mask through day 10 and continue to Isolate if symptomatic.

What Should CA Employers Do?

1. Continue to comply with Cal/OSHA's ETS, with January 14th updates in mind
2. Check local health department guidance for additional requirements
3. Review your COVID-19 prevention plan to ensure compliance
4. Continue training requirements
5. Ensure compliance with notifications of exposures/outbreaks to Employees, Local Health Departments & Workers Compensation Claims Administrator

Exclusion Pay and Benefits

- The Cal OSHA ETS requires employers to pay “exclusion pay” under certain circumstances:
- If an employee is required to be excluded from work because of a **WORKPLACE** COVID-19 exposure, they should receive exclusion pay and their earnings must be continued during the quarantine period.
- Employers must continue and maintain the employee’s earnings, wages, seniority and all other rights and benefits, including the employee’s right to their former job status, as if the employee had not been removed from the job.
 - Does not apply where the employee receives disability payments or workers’ compensation temporary disability payments.
 - Does not apply where the employer demonstrates that the close contact is not work related.
- Employers cannot require employees to use paid sick leave mandated under the Healthy Workplaces, Healthy Families Act.

How to Properly Complete Your OSHA 300 Form

2022



2020 Form 300A (Summary)

Must be posted
from:

February 1st, 2021 to
April 30th, 2021

“in a visible location”

Cal/OSHA Form 300A (Rev. 7/2007) **Appendix B**
Annual Summary of Work-Related Injuries and Illnesses

Year 20__

Department of Industrial Relations
Division of Occupational Safety & Health

All establishments covered by CCR Title 8 Section 14300 must complete this Annual Summary, even if no work-related injuries or illnesses occurred during the year. Remember to review the Log to verify that the entries are complete and accurate before completing this summary.
Using the Log, count the individual entries you made for each category. Then write the totals below, making sure you've added the entries from every page of the Log. If you had no cases, write "0."
Employees, former employees, and their representatives have the right to review the Cal/OSHA Form 300 in its entirety. They also have limited access to the Cal/OSHA Form 301 or its equivalent. See CCR Title 8 Section 14300.35, in Cal/OSHA's recordkeeping rule, for further details on the access provisions for these forms.

Number of Cases

Total number of deaths	Total number of cases with days away from work	Total number of cases with job transfer or restriction	Total number of other recordable cases
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
(G)	(H)	(I)	(J)

Number of Days

Total number of days away from work	Total number of days of job transfer or restriction
<input type="text"/>	<input type="text"/>
(K)	(L)

Injury and Illness Types

Total number of . . . (M)			
(1) Injuries	<input type="text"/>	(4) Poisonings	<input type="text"/>
(2) Skin disorders	<input type="text"/>	(5) Hearing loss	<input type="text"/>
(3) Respiratory conditions	<input type="text"/>	(6) All other Illnesses	<input type="text"/>

Post this Annual Summary from February 1 to April 30 of the year following the year covered by the form.

Establishment information

Your establishment name

Street

City State ZIP

Industry description (e.g., *Manufacture of motor truck trailers*)

Standard Industrial Classification (SIC), if known (e.g., *SIC 3715*)

Employment information (If you don't have these figures, use the optional Worksheet to estimate.)

Annual average number of employees

Total hours worked by all employees last year

Sign here

Knowingly falsifying this document may result in a fine.

I certify that I have examined this document and that to the best of my knowledge the entries are true, accurate, and complete.

Company executive Title

Phone Date

<https://www.dir.ca.gov/dosh/DoshReg/AppendxB300AFinal.pdf>

Do I have to record COVID-19 illnesses on my OSHA 300?

Yes, but...

- To be recordable, an illness must be work-related and result in one of the following:
 - **The case is a confirmed case of COVID-19, as defined by the CDC.**
 - **The case is work-related, as defined by 29 CFR § 1904.5.**
 - Death.
 - Days away from work.
 - Restricted work or transfer to another job.
 - Medical treatment beyond first aid.
 - Loss of consciousness.
 - A significant injury or illness diagnosed by a physician or other licensed health care professional.

If a work-related COVID-19 case meets one of these criteria, then covered employers in California must record the case on their 300, 300A and 301 or equivalent forms.

Cal/OSHA reference, [here](#)

COVID FAQ



Is time an employee spends in quarantine considered “days away from work” for recording purposes?

NO.

Unless the employee also has a work-related illness that would otherwise require days away from work, **time spent in quarantine is not “days away from work” for recording purposes.**

This means under the “Days Away From Work” column, any COVID-19 cases you have “0” days away.

Reference [here](#).

York Risk Services Group, Inc., a Sedgwick company, through this report, provides the ability to export workers' compensation loss data to assist an employer with OSHA record keeping responsibilities. It is the employer's obligation to determine if an accident is recordable and to also determine the lost work days, restricted work days, and other relevant data elements. This report produces data subject to the input criteria chosen and is presented for subsequent manipulation using Excel or import into a third party application utilized by the employer. York Risk Services Group, Inc., a Sedgwick company, does not render legal advice and the information contained in this report should not be regarded as such.

OSHA's Form 300 (Rev. 01/2004)

Log of Work-Related Injuries and Illnesses

Attention: This form contains information relating to employee health and must be used in a manner that protects the confidentiality of employees to the extent possible while the information is being used for occupational

Year 2020

U.S. Department of Labor
Occupational Safety and Health Administration

You must record information about every work-related injury or illness that involves loss of consciousness, restricted work activity or job transfer, days away from work, or medical treatment beyond first aid. You must also record significant work-related injuries and illnesses that are diagnosed by a physician or licensed health care professional. You must also record work-related injuries and illnesses that meet any of the specific recording criteria

Form approved OMB no. 1218-0176

Identify the person Describe the case Classify the case

(A) Case No.	(B) Employee's Name	(C) Job Title (e.g., Welder)	(D) Date of injury or onset of illness (mo./day)	(E) Where the event occurred (e.g. Loading dock north end)	(F) Describe injury or illness, parts of body affected, and object/substance that directly injured or made person ill (e.g. Second degree burns on right forearm from acetylene torch)	CHECK ONLY ONE box for each case based on the most serious outcome for that case:				Enter the number of days the injured or ill worker was:		Check the "injury" column or choose one type of illness:					
						Death	Days away from work	Remained at work		Away From Work (days) (K)	On job transfer or restriction (days) (L)	(M)					
				Job transfer or restriction	Other recordable cases			Injury	Skin Disorder			Respiratory Condition	Poisoning	Hearing Loss	All other illnesses		
				(G)	(H)	(I)	(J)	(K)	(L)	(1)	(2)	(3)	(4)	(5)	(6)		
		Supervisor	9/10/20		Left Eye/While working on peeler #14 caustic acid splashed on his left eye.				x	0	0	x					
		General Labor	7/29/20		Coronavirus COVID 19-Lungs/COVID-19 +				x	0	0					x	
		General Labor	4/8/20		Coronavirus COVID 19-Lungs/COVID-19				x	0	0					x	
		Cookroom Cooker / Cooler	8/26/20		Coronavirus COVID 19-Whole Body/COVID-19				x	0	0					x	
		Belt Worker	8/18/20		Coronavirus COVID 19-Lungs/COVID-19				x	0	0					x	
		QA Tech	8/17/20		Coronavirus COVID 19-Whole Body/COVID-19				x	0	0					x	
		Filler/Seamer	3/17/20		Coronavirus COVID 19-Headache/COVID-19				x	0	0					x	
		Belt Sorter	7/29/20		Coronavirus COVID 19/COVID-19 +				x	0	0					x	
		Blending Unloader	8/4/20		Coronavirus COVID 19-Lungs/COVID-19				x	0	0					x	
		Electrician/Mechanic	8/10/20		Coronavirus COVID 19-Lungs/COVID-19				x	0	0					x	
		Belt Worker	7/13/20		Coronavirus COVID 19-Cough, Sore Throat/COVID-19				x	0	0					x	
		Mechanic	7/20/20		Coronavirus COVID 19-Lungs/COVID-19 Positive				x	0	0					x	
		Belt Sorter	8/6/20		Coronavirus COVID 19-Lungs/COVID-19				x	0	0					x	
		Canner Trainer	8/19/20		Coronavirus COVID 19-Lungs/COVID-19				x	0	0					x	
		Supervisor	8/26/20		Coronavirus COVID 19-Body Chill, Hard Time Breathing, Headaches, Fever/COVID-19				x	0	0					x	
		General Laborer	8/17/20		Coronavirus COVID 19-Whole Body Aches/COVID-19				x	0	0					x	
		General Labor - Belt Sorter	8/7/20		Coronavirus COVID 19-Headache/COVID-19				x	0	0					x	
		Unknown	7/30/20		Coronavirus COVID 19-No Accident/COVID-19				x	0	0					x	
		Outside Sales	7/13/20		Coronavirus COVID 19-Sore Throat, Dizzy, Prefever Sign/COVID-19				x	0	0					x	
		Basil Weigh Master	8/13/20		Coronavirus COVID 19-Stomache/Feeling ill in the Basil room				x	0	0					x	
		Can Operator	7/10/20		Coronavirus COVID-19				x	0	0					x	
		General Labor	7/21/20		Coronavirus COVID-19				x	0	0					x	
		Sanitation - P1/ Prep Outside	8/14/20		Coronavirus COVID-19/Throat, Body Started Aching				x	0	0					x	
		Filler/Seamer Op	9/15/20		Left Knee/Walking in parking lot B she tripped over a wheel stop and fell on her left knee				x	0	0	x					

Leveraging Technology in Your 2022 Risk Management Plan

Inspections, online training, PowerBI

AIU	HJI	WWE	PLO	EER	QRT	OPY
1,822 (-35)	20,369 (+580)	890 (-20)	6,350 (-200)	10,985 (+580)	665 (-15)	6,800 (-115)
MBC	LJH	MJB	PON	NFR	UGH	OMJ
3,605 (+210)	9,542 (-128)	2,609 (+35)	7,654 (+169)	6,522 (+122)	1,632 (-54)	3,652 (+182)
YBV	QMN	MMJ	IIT	KLM	CCX	EMH
3,204 (-33)	5,211 (+156)	7,100 (-60)	7,150 (-150)	782 (+74)	1,901 (+101)	3,280 (-120)
MBR	WFF	HJM	OLC	LSD	SDH	GHS
3,620 (-20)	712 (+12)	134 (+5)	2,022 (-18)	631 (+40)	6,287 (-57)	12,430 (+330)

Leveraging Technology



Digital Inspection App
for site audits
and trend
aggregation



Learning Management System
for digital training
recordkeeping



Task Manager
for managing
team's monthly
tasks



Cloud Based Compliance Library
for sharing
policies and
managing
recordkeeping



PowerBI for KPI Dashboard
and monthly
safety
committee
analysis

Digital Inspection App

Conduct inspections utilizing a digital application.

Establish a monthly scorecard and aggregated trends.

Leverage those trends into safety trainings and awareness campaigns.

Benefits:

- Efficiency in reporting
- Data aggregation
- Track results vs. goals



Online Training (LMS)

Online Safety Training Learning Management System (LMS)

- 5-8 min training can be assigned to employee
- Employee completes training and quiz
- Certificates of Completion are issued to each employee
- Employee statistics are tracked by the Administrator as a KPI

Benefits:

- Digitization of training
- Centralized real-time tracking and reporting
- Digital recordkeeping of certificates by employee
- Satisfies OSHA Compliance requirements

The image displays a collage of screenshots from the ESM LMS interface. The top left screenshot shows a 'Team Overview' dashboard with a circular progress indicator for 34 users, categorized by 'Completed (3)', 'In Progress (8)', and 'Not Started (23)'. Below this are 'Badges Earned' (2) and 'Hour Consumed' (0). The top right screenshot shows a 'My Team' list with users Jane Learner and Joe Learner, each with completion status. The middle right screenshot shows a 'WELCOME!' screen for Joe Learner with a 'LEARNING LIST' containing 'Back to Work, Back to Safety (English)', 'Bloodborne Pathogens Safe Practices (English)', and 'Bloodborne Pathogens Safe Practices (Spanish)'. The bottom left screenshot shows a 'PREVENTING BACK INJURIES' training module with an illustration of a person lifting a box correctly and a 'Start Course' button. The bottom right screenshot shows a 'CERTIFICATE OF COMPLETION' for Joe Learner, awarded for completing 'Establishing An Effective Safety Committee' on 09/30/2021, with the ESM logo.

Task Manager

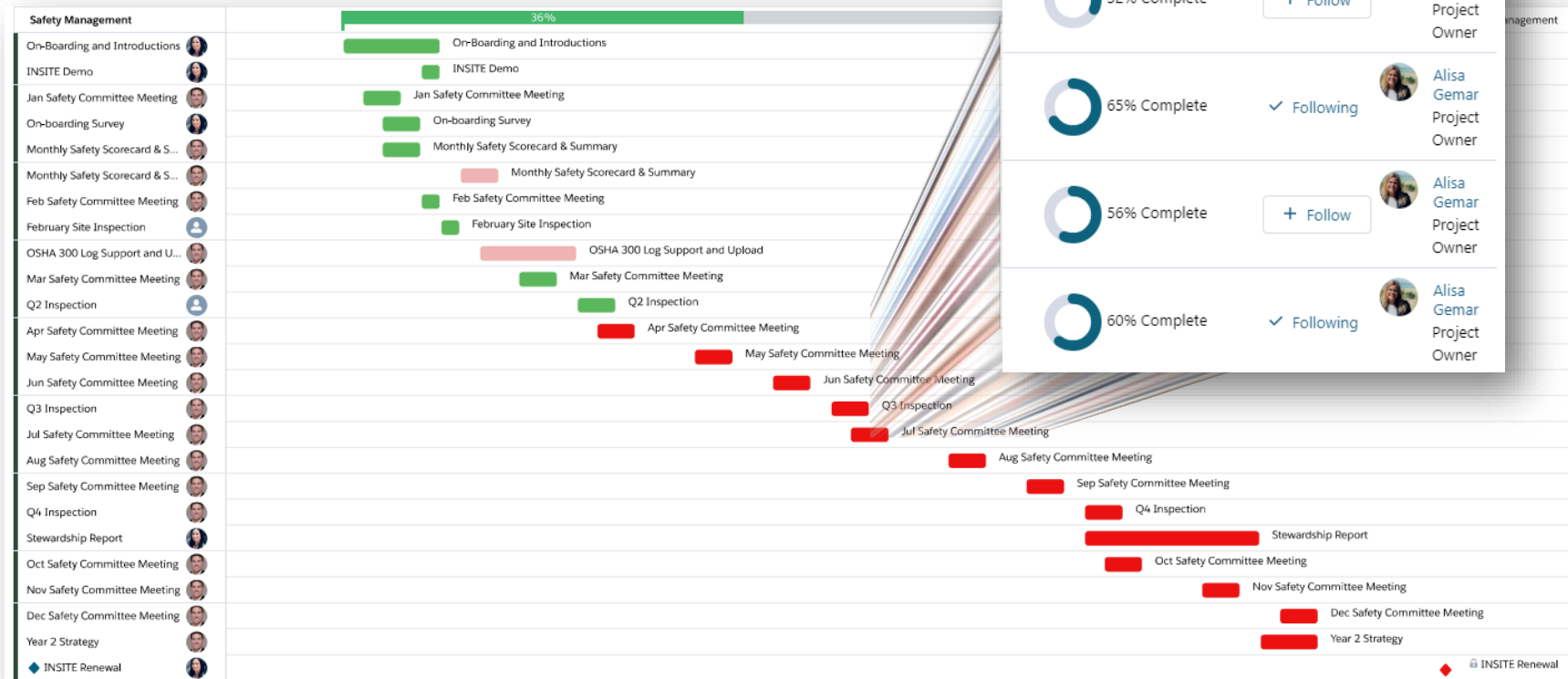
Leverage a task manager for assignment and completion of tasks.

Resources:

- TaskRay
- Trello
- Asana
- Basecamp

Benefits:

- Organization and assignment of required monthly tasks
- Accountability



Cloud Compliance Library

ESM INSITE

COVID-19 EXPOSURE CONTROL REQUIREMENTS AND BEST PRACTICES MITIGATING THE VIRUS

2021

Our safety culture embraces the health and well-being of our employees. Creating a safe work environment is priority #1!

[COMPANY LOGO]

Company Employee Safety Handbook

(IIPP, COSP, NIOSH)

Update

Employee Name: _____

Date of Hire: _____

Department: _____

This document provides policies, individual roles and responsibilities, general and specific requirements and procedures necessary to ensure a safe work environment and safety. Each employee will review this entire packet and will initial or sign as indicated in the packet to document individual review and understanding of the contents.

I. Lockout/Tagout Program

A. General Company name Policy

The purpose of this program is to establish policy and procedures to prevent injuries with unexpected energization or start up of machines or equipment during cleaning, repairing, servicing, setting up, and adjusting machines and equipment. Company name emphasizes the most effective way to prevent an electrical injury is to completely remove the source of electrical energy and eliminate the possibility of its reappearance.

The Safety Manager is the Lockout/Tagout Program Coordinator, who has overall responsibility for the program.

References
The following documents are referenced in this policy.

Document Type & Number	Document
CAL/OSHA Title 8 CCR	CAL/OSHA 3314 The Control of Hazardous Energy Setting Up, and Adjusting Operations of Prime Movers
OSHA 29 CFR 1910.147	Control of Hazardous Energy

B. Definitions and acronyms (per CAL-OSHA Title 7 Section 3200)

Word or Acronym	Definition
Affected Employee	An employee whose job requires them to operate, clean, repair, service, set up, or adjust machinery or equipment, or whose job requires the employee to perform maintenance on that machinery or equipment.
Authorized Employee or person Energized	A person who locks out or tags out machines or equipment to perform maintenance or repair on that machine or equipment.
Energy isolating device	Mechanical device that physically prevents the flow of energy to a machine or equipment, but not limited to the following: A manually operated switch; a manually operated switch by which the machine or equipment is disconnected from all energy sources.
Energy Source	Any source of electrical, mechanical, hydraulic, pneumatic, chemical, thermal, or other energy.
Energy Control Program	A program consisting of energy control procedures, inspections to ensure that before any employee works on a machine or equipment where unexpected energization or start-up could occur and cause injury, the machine or equipment is rendered inoperative.
Locked out	The use of devices, positive means, and procedures to isolate or securing of prime movers, machine parts, hydraulic, chemical, electrical, thermal, or other energy sources.
Lockout device	A device that utilizes a positive means such as a padlock and prevents the energizing of a machine or equipment to be maintained.
Normal Production Operations	The utilization of a machine or equipment to perform its intended function.
Prime Mover	The source of mechanical power for a machine or equipment.
Service and/or Maintenance	Workplace activities such as constructing, installing, modifying, and maintaining and/or servicing machinery or equipment.

Lock Out - Tag Out Data and Procedure Sheet

Machinery or Equipment Information

Machinery Type: _____ Location of Machinery: _____

Machinery Unit #: _____ Authorized Persons: _____ Affected Persons: _____

Type of Maintenance Required: _____

Shut Down - Maintenance Procedure

Shut Down Procedure: _____

Personal Protective Equipment Necessary: _____

Energy Sources and LOTO Procedure

Energy Source	Lockable Control and Location	Blocking Method (if necessary)

Requirements for Testing Machine to determine lockout/blockout Effectiveness

Lockout Effectiveness Test: Try to start machine in the normal fashion, turn on equipment and test voltage (minimal procedure)

Blockout Effectiveness Test: _____

Procedure to follow if machine must have movement to perform specific cleaning or repair tasks

Extension tool to be used: _____

Other means to protect employee: _____

Procedure for release from Lockout/Blockout prior to re-starting machine

Lockout Release Procedure: Tell affected employees that machine will be restarted.

Blockout Release Procedure: Beware of potential energy that could be released.

Tag Removal Procedure: _____

Pre-Start Notification Procedure: Tell affected employees that machine is ready.

Machine Energy Control (LOTO) Program Monitoring and Inspection Procedure

Date of Inspection:	Inspector:	Employees Performing LOTO:

Comments on LOTO Procedure followed: _____

Improper Procedures Identified and Corrective Actions Taken: _____

Management Approval and Date: _____ Safety Manager Approval and Date: _____



PowerBI

Microsoft Power Business Intelligence (BI) Executive level dashboard with trending data provided monthly online. Data to include:

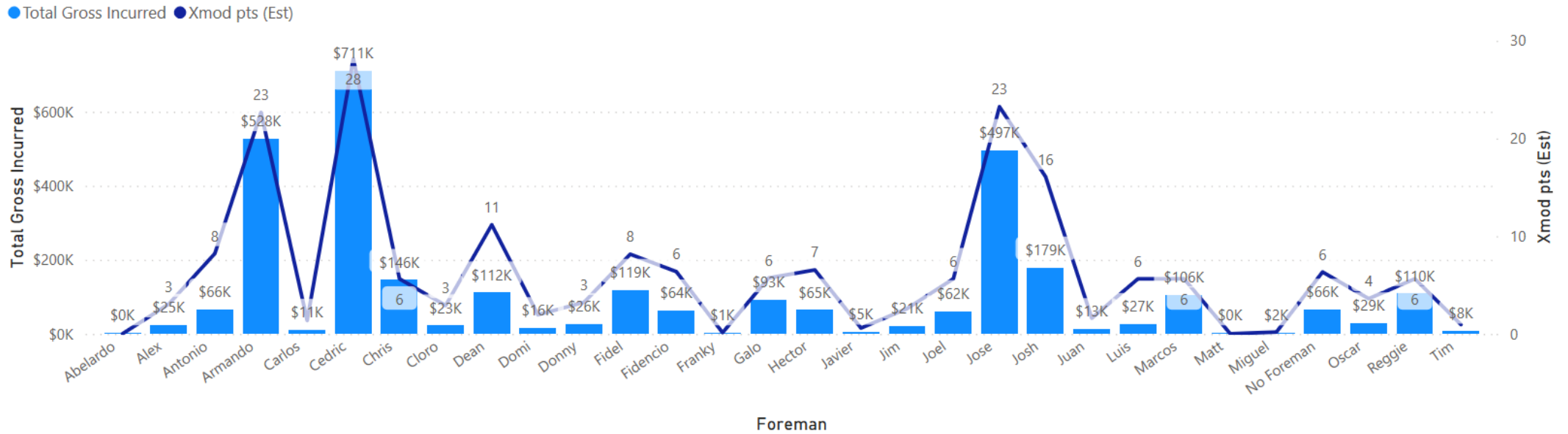
- Site Inspections
- Computer Based Training Scores
- Historical loss trending
- X-Mod comparison
- Supervisor accountability
- MBRs

Benefits:

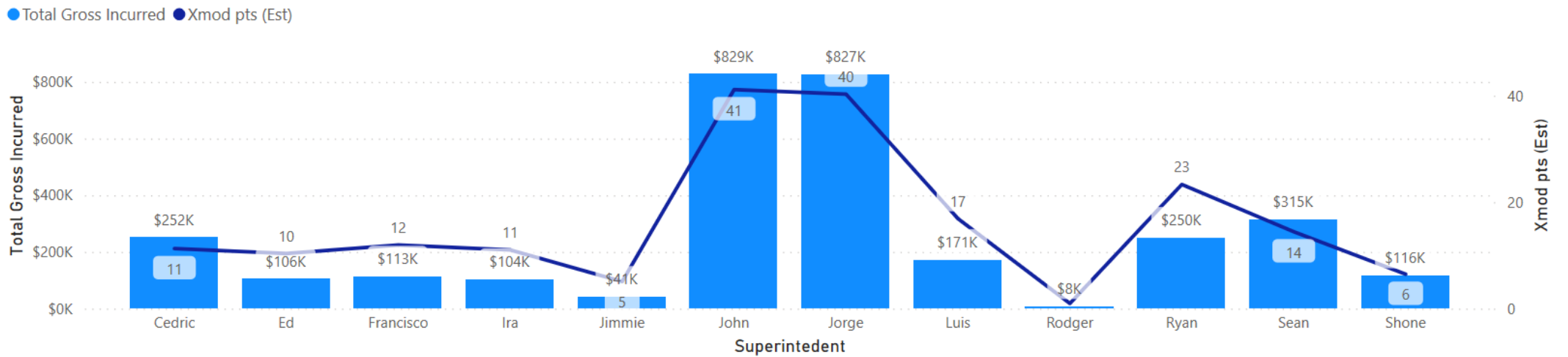
- Leverage data for safety intelligence strategies and safety committee guidance.
- Maintain accountability of completing initiatives .



Total Gross Incurred and Xmod pts (Est) by Foreman



Total Gross Incurred and Xmod pts (Est) by Superintendent



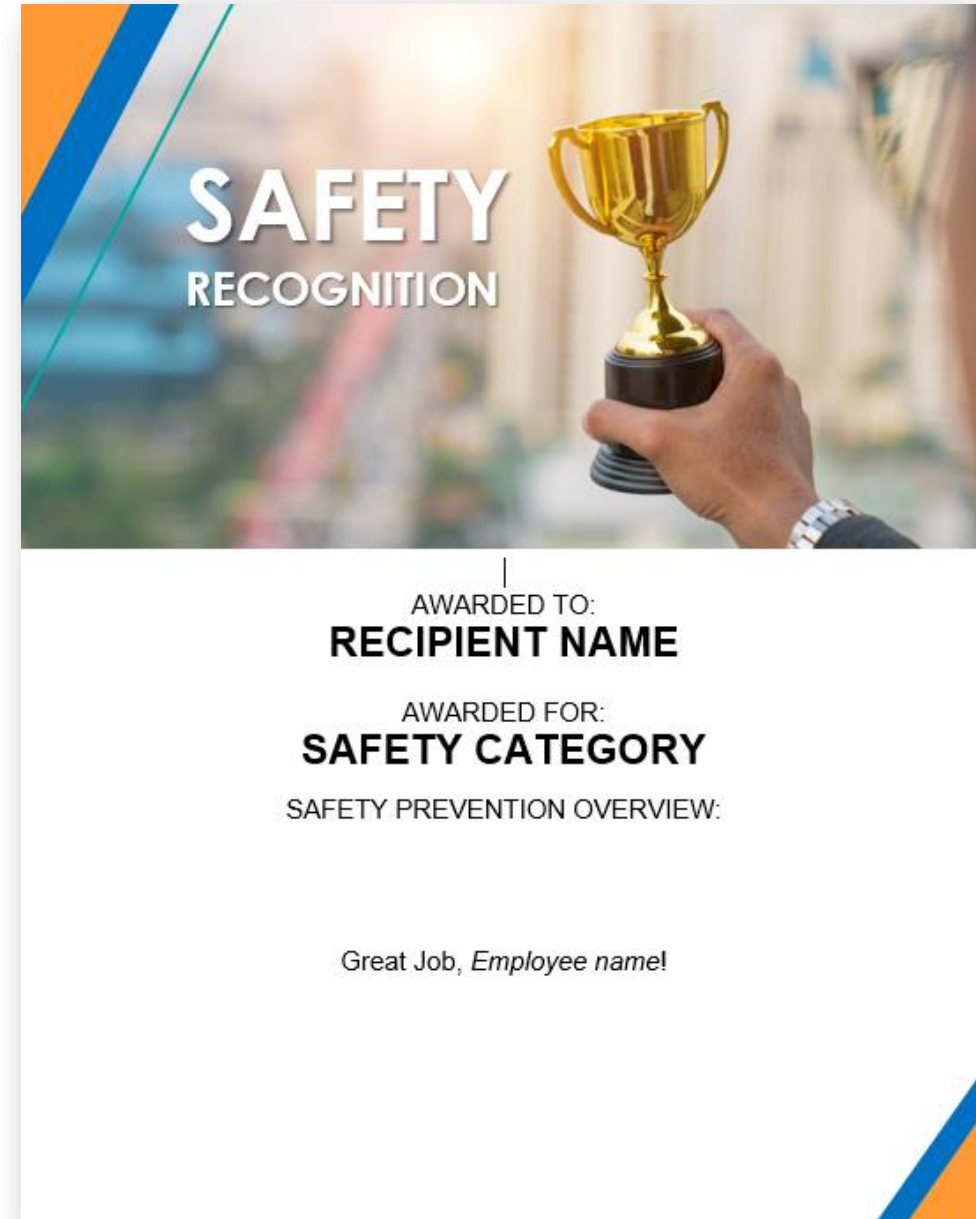
Safety Recognition Award

Identify employees that go above and beyond the safety minimums

- Recipient to be provided a safety certificate
- Recipient to receive a ~\$20-50 gift card.
- Nominating supervisor to provide the award to the recipient at the next team meeting.
- Award to be posted on employee bulletin board.
- Recipients can be eligible for a quarterly/annual grand prize.
- Use Google Forms or Teams Forms for tracking candidates

Benefits:

- Morale booster
- Increased participation in the safety program
- Because everyone is working hard!





Case Study

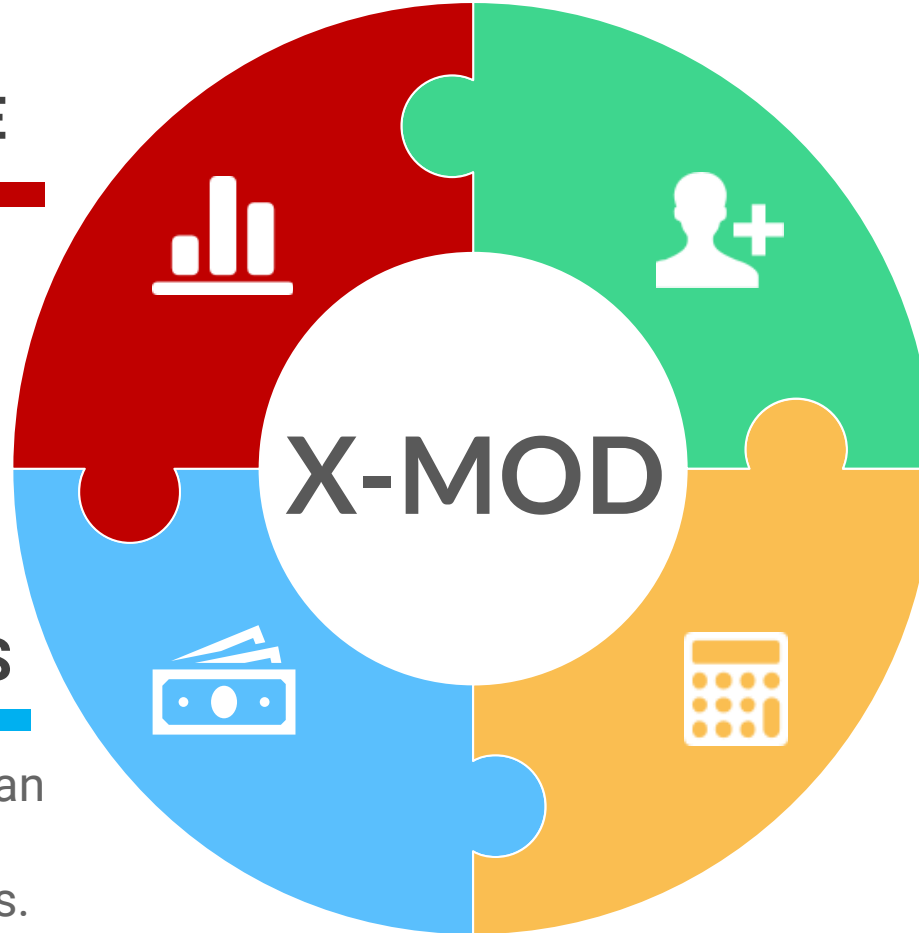
2021

SAFETY CREDIT SCORE

Your past losses affect your future X-Mod.

INSURANCE PREMIUMS

A proactive safety program can control your X-Mod and Workers' Compensation costs.



INSURANCE OPTIONS

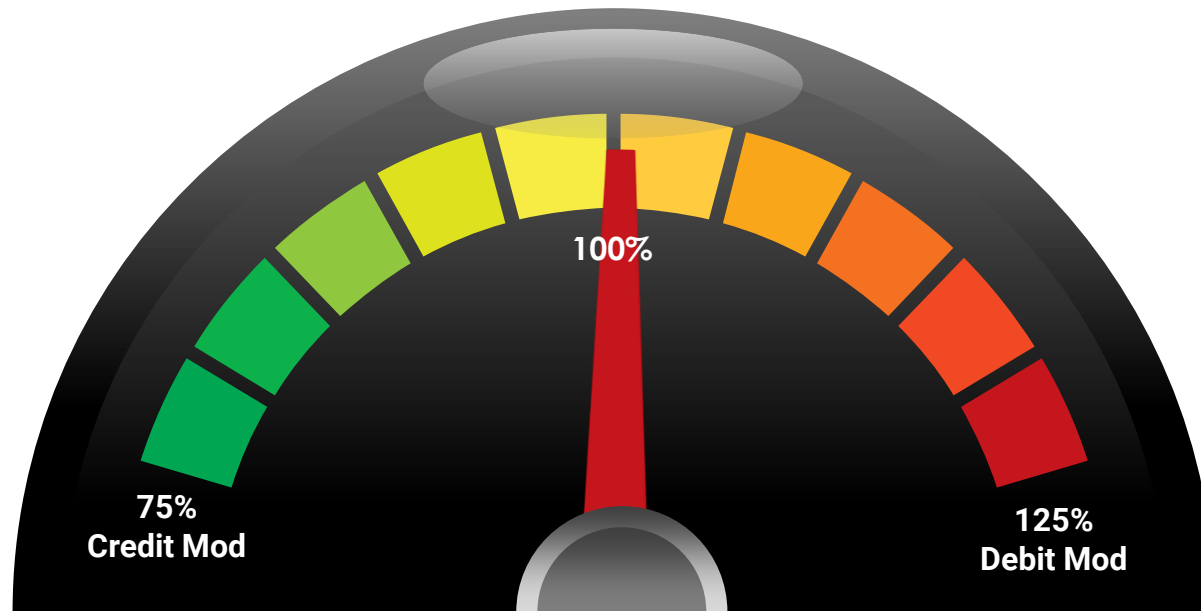
The better your X-Mod, the better the Insurance Carrier options as the lower your X-Mod, the lower the risk.

FINANCIAL INCENTIVE

Provides a financial incentive to reduce workplace injuries.

Bigger Isn't Better!

The higher the X-Mod, the higher the Workers' Compensation premium.



CREDIT MOD (75%)

\$75,000

Lower Workers' Compensation Premium
EXAMPLE

AVERAGE X-MOD (100%):

\$100,000

Average Workers' Compensation Premium
EXAMPLE

DEBIT MOD (125%)

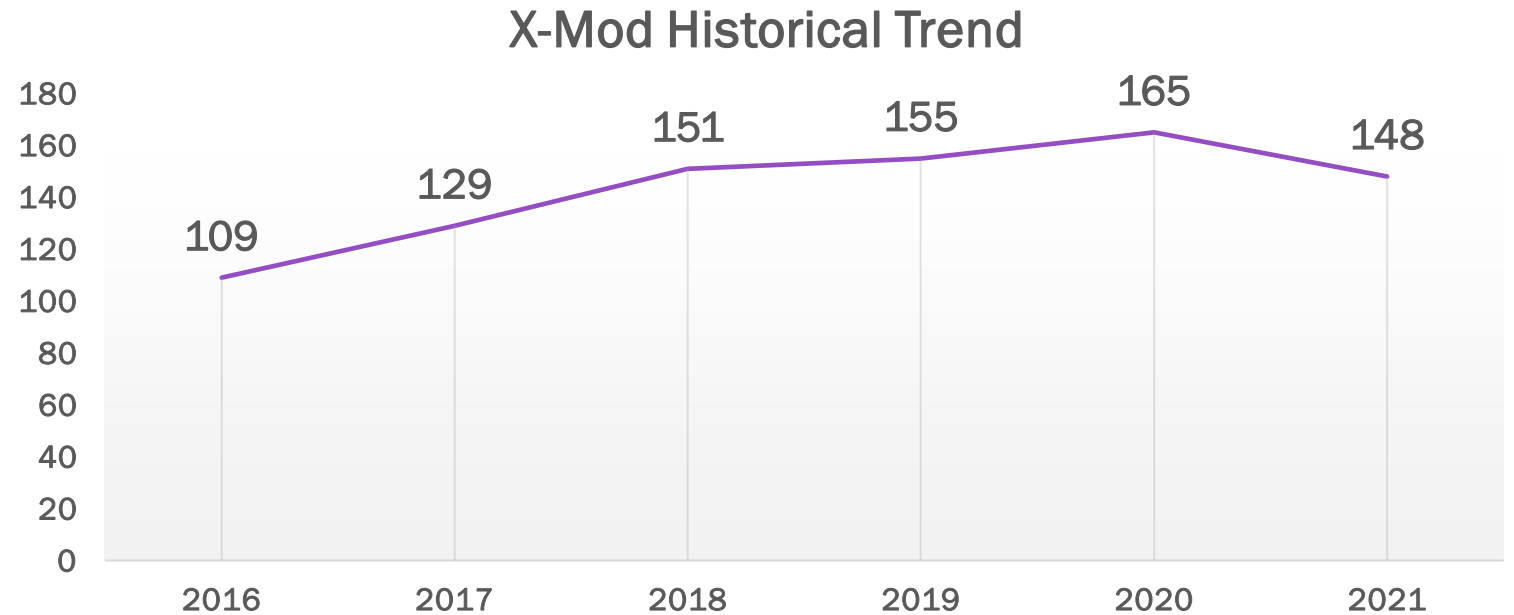
\$125,000

Higher Workers' Compensation Premium
EXAMPLE

X-MOD HISTORY

Current Primary Threshold \$28,000
Current Loss Free Rating 50%
Current Experience Period 9/30/2016 – 9/30/2019

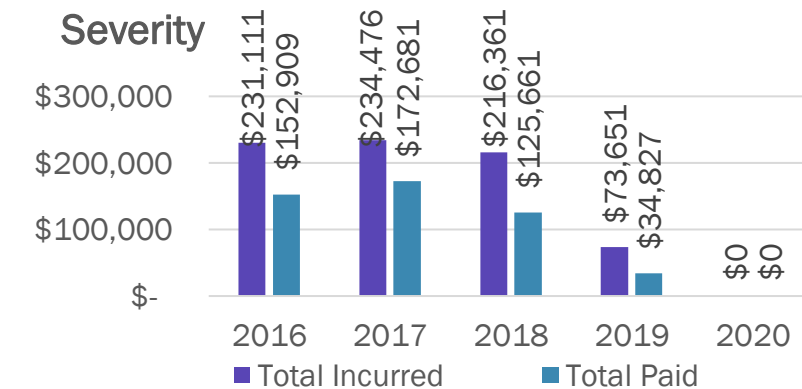
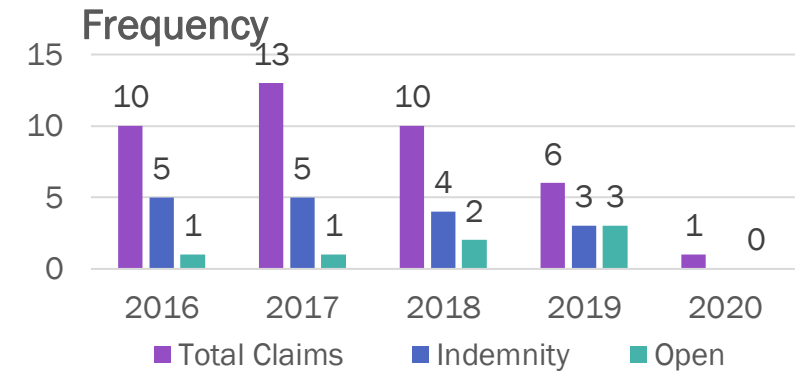
Policy Year	X-Mod
2016	109
2017	129
2018	151
2019	155
2020	165
2021	148



EXPERIENCE PERIOD DETAILS

POLICY YEAR: 6/30/2020 – 6/30/2021

	Current Year	X-Mod	X-Mod	X-Mod	Roll Off Year
Policy Year:	2020	2019	2018	2017	2016
Carrier:	Everest	Everest	Everest	ICW	ICW
Loss Run Date:	7/27/20	7/27/20	7/27/20	7/25/2020	7/25/2020
Total Incurred:	\$ 26,564	\$53,606	\$199,703	\$241,319	\$242,610
Total Paid:	\$ 3,106	\$39,367	\$137,431	\$146,938	\$159,354
Total Claims:	6	8	10	13	10
Indemnity Claims:	1	4	4	5	5
Open Claims:	4	1	1	1	1



ESM Comments:

The 2020 policy has 1 indemnity claim that accounts for 75% of the total incurred (\$20,050 : \$26,564) and only \$969 is paid.

The 2019 policy year has a total of 8 claims with \$53,606 in total incurred. 1 claim remains open with \$14,238 in reserves.

The 2018 policy year as 1 claim open, with \$62,272 outstanding.

Safety Goals

Policy Year: July 1, 2020-21

< 7 ✓

7 injuries or less

90% ✓

90% monthly training completion

12 ✓

12 safety meetings (1 per month)

75% ✓

75% of injuries reported to carrier
within 5 days

< 25 ✓

25 or less lost days

< \$50K ✓

\$50K or less in injury cots.
(Lowest in 5+ years)

Goals & Key Performance Indicators (KPIs) for 2020-21 Policy

KPI	Annual Goal	Current Result	Results
Injury Frequency	< 7	6	✓
Injury Severity	< \$50,000	\$26,564	✓
Reporting (Lag Time)	< 75% less than 5 days	83% 6:7 reported timely	✓
Safety Training	90%	91%	✓
Inspection Score	90%	93%	✓
Lost Days	< 25	2	✓

RESULTS OF SAFETY PROGRAM INITIATED IN 2019

KPI	2016 – 18 Policy Years (Avg.)	2019-20 Policy Year	2020-21 Policy Year	Comment
Frequency	11	8 (28% reduction)	6 (45% reduction)	Frequency reduction attributed to enhanced training, new leadership in maintenance and HR, and policy establishment.
Severity	\$227,877	\$53,606 (75% reduction)	\$26,564 (89% reduction)	Severity reduced by enhanced training, claims reporting and return to work initiatives.
Indemnity Claims	4.7	4 (15% reduction)	1 (79% reduction)	Implemented a return-to-work program and litigation strategies ideal for the COVID climate (C&R with a voluntary resignation)
Premium	\$280,401 (2017-2019)	\$300,000	\$303,622	Despite an X-mod that has increased From 76% to 165% (89 pts) from 2015 – 2020

2021-22 Premium: \$204,537

(\$99K savings and anticipated decrease in X-Mod (-30 points))



Next steps

Moving forward →

Time to get started..here's your next steps



**ESTABLISH A
SAFETY
COMMITTEE.**

BECAUSE YOU
CAN'T DO THIS
ALONE.



**UPDATE YOUR
COVID-19
PREVENTION
PLAN.**

IDENTIFY GAPS IN
YOUR EXISTING
PROGRAM AND
IMPROVE
RECORDKEEPING



**ESTABLISH GOALS
& MONTHLY KPIS
FOR 2022.**

FREQUENCY,
SEVERITY, LAG
TIME, TRAININGS,
INSPECTIONS, ETC.



**DEVELOP A
TRAINING PLAN
FOR THE YEAR.**

TRAININGS
SHOULD ALIGN
WITH YOUR LOSS
LEADERS OR KEY
EXPOSURES.



**COMPLETE
MONTHLY
INSPECTIONS.**

IDENTIFY TRENDS
AND STRATEGIES
TO MITIGATE
THEM



**LEVERAGE
TECHNOLOGY IN
YOUR STRATEGY.**

IT WILL CREATE
EFFICIENCIES AND
ACCOUNTABILITY.

Risk Management final thoughts...



HUMAN ELEMENT

RIGHT THING TO DO



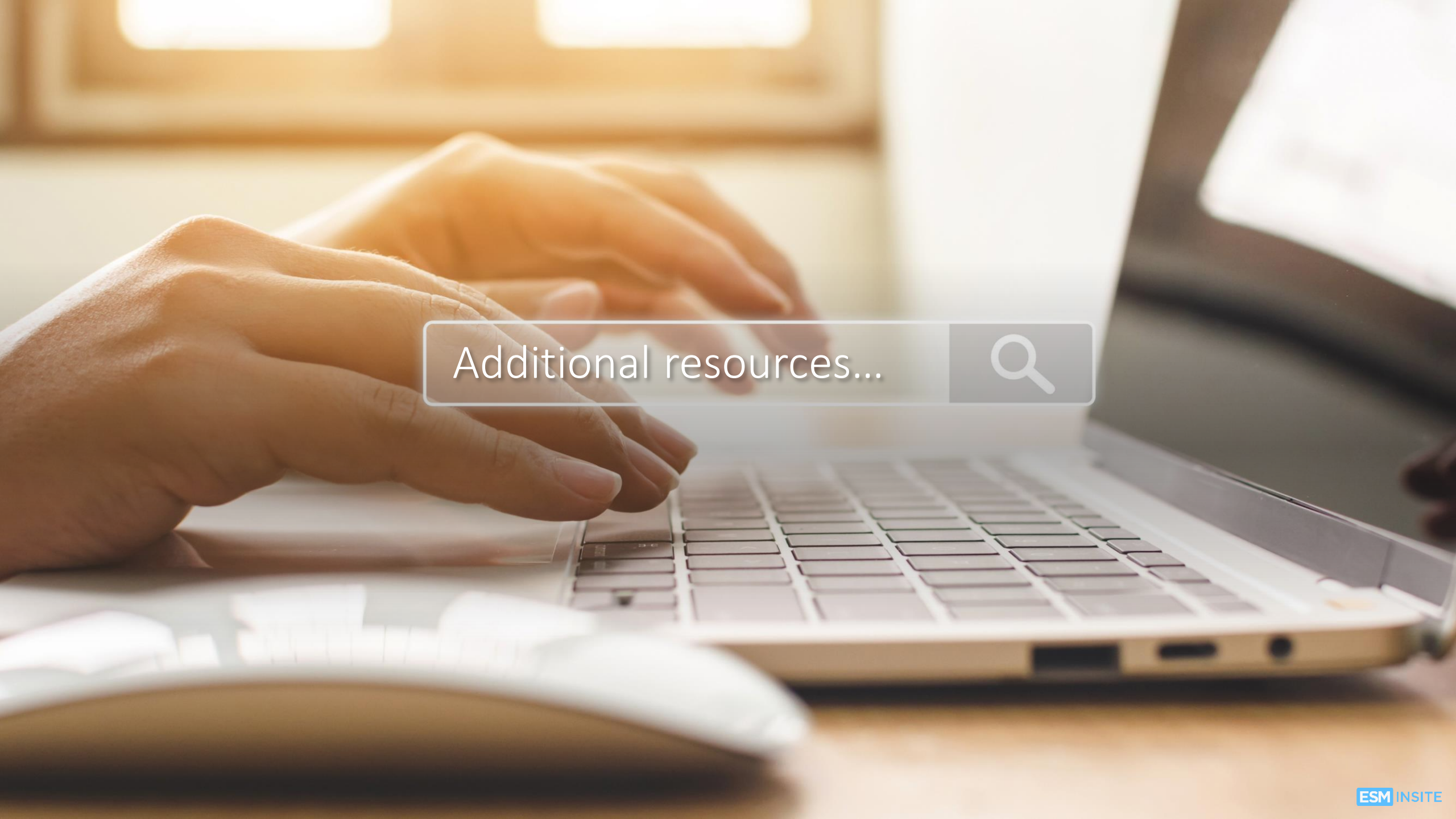
COMPLIANCE ELEMENT

REQUIRED TO DO IT



MARKETING ELEMENT

CARRIER MARKETING
CARRIER CREDITS
BIDDING ON PROJECTS
SELLING YOUR BUSINESS

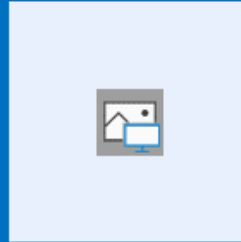


Additional resources...



Updated COVID-19 Prevention Plan

Effective January 14, 2022



Enter Company Name COVID-19 PREVENTION PROGRAM

BEST PRACTICES FOR MITIGATING THE RISK OF COVID-19

Our safety culture embraces the health and wellness of our team, and creating a safe work environment is priority #1!

UPDATED JANUARY 14, 2022

COVID-19 PREVENTION PROGRAM

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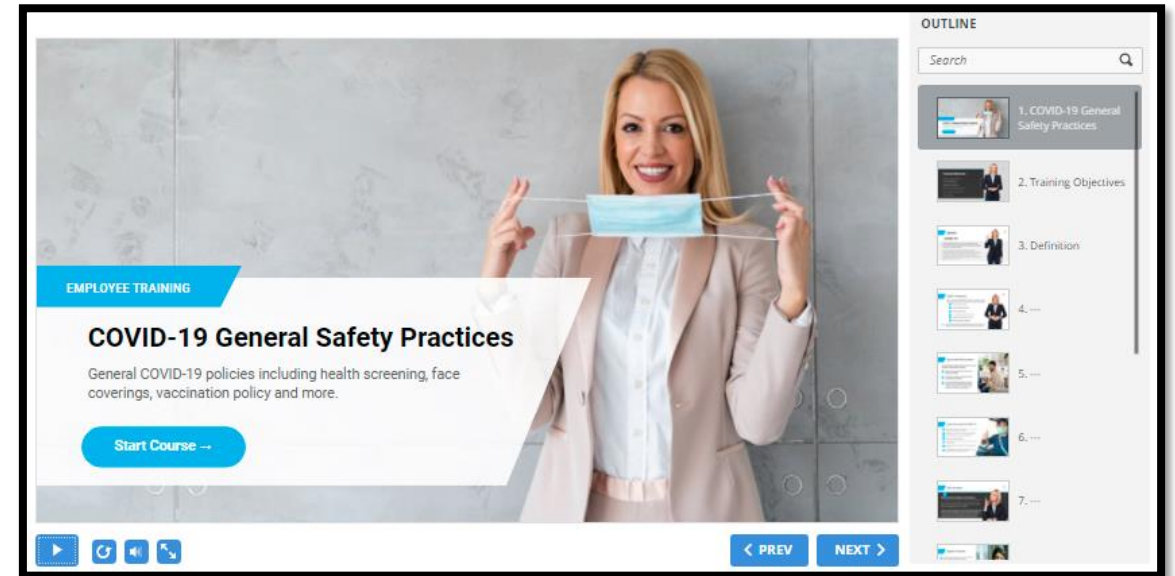
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Computer Based Trainings (English & Spanish)

Available to INSITE subscribers and to LMS users



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For more information on ESM's Learning Management System for employee training visit:
www.esminsite.com/learning-management-system

Updated Safety Tips

COVID-19 General Overview

COVID-19 Worksite Safe Practices

SAFETY

TIP OF THE MONTH

COVID-19 WORKSITE PRACTICES

Communicable Diseases, such as COVID-19, spread through respiratory secretions when exhaled or expelled through coughing, sneezing, etc., COVID-19 may be transmitted when a person touches a contaminated object and then touches their eyes, nose, or mouth. As it relates to COVID-19, an infectious person may also have no symptoms. COVID-19 symptoms may appear in 2 days or as long as 14 days and include:

- Fever of 100.4 or higher
- Cough, Shortness of breath
- Loss of taste or smell
- Chills, fatigue, muscle or body aches
- Headache, sore throat, runny nose
- Nausea, vomiting or diarrhea

Employee safety is a priority. As such, our company will:

- Make hand sanitizer dispensers available by entry doors at all sites.
- Eliminate sharing tools and equipment.
- Monitor employees' wellness. If not feeling well, they are required to stay home.
- Face coverings are required to be worn over the nose and mouth, unless alone in a room, outdoors, or when eating and drinking

We will remain proactive with mitigation strategies focused on minimizing and neutralizing exposures to COVID-19. We will take appropriate measures to comply with State and Local requirements, which may include enhanced disinfecting procedures, face covering requirements, physical distancing and an increased air filtration effort.



FACILITY & WORKSITE CONTR

- Ongoing evaluation of existing COVID-19 prevention and the need for different or additional control
- Periodic inspections will be completed as needed conditions, work practices, and work procedures ensure compliance with our COVID-19 policies
- Anyone who is symptomatic is prohibited from
- We will work with our health providers for support
- Free testing locations are posted.
- Reduce tasks requiring large amounts of people work to reduce or eliminate employee stacking
- Groups will be limited in size to allow for appropriate spacing.
- Ensure activities have adequate spacing.
- For close contact activities that cannot adjust enhanced PPE, including respirators will be considered
- We may conduct temperature screening using
- In administrative work areas we may reduce the relocate them to accommodate social distancing
- Post PPE signs identifying that face coverings individuals who are sick or symptomatic must
- Building capacity planning may be conducted number of people in our building.
- Air flow will be maximized to the extent possible and/or increased ventilation and filtration via the Air Quality Index (AQI) exceeds 100

REPORTING, EXCLUSIONS & R

- Employees, without fear of reprisal, are required and/or Human Resources if they have COVID-19 have recognized potential COVID-19 hazards.
- Employees that suspect there is a potential exposure disease, must report the potential exposure to manager immediately.
- Employees within close contact with a COVID-19 the workplace unless they are fully vaccinated, symptoms for 90 days since, or were wearing a
- COVID-19 cases with COVID-19 symptoms shall following criteria is met:
 - o At least 24 hours have passed since a fever
 - o COVID-19 symptoms have improved; and
 - o At least 10 days have passed since COVID

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SAFETY

TIP OF THE MONTH

CORONAVIRUS (COVID-19)

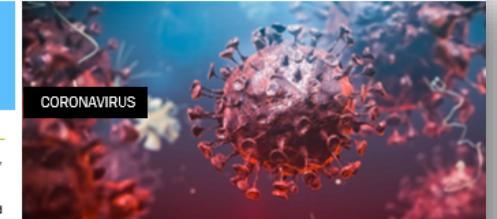
Communicable Diseases, such as COVID-19, spread through respiratory secretions when exhaled or expelled through coughing, sneezing, etc., COVID-19 may be transmitted when a person touches a contaminated object and then touches their eyes, nose, or mouth. As it relates to COVID-19, an infectious person may also have no symptoms. COVID-19 symptoms may appear in 2 days or as long as 14 days and include:

- Fever of 100.4 or higher
- Cough, Shortness of breath
- Loss of taste or smell
- Chills, fatigue, muscle or body aches
- Headache, sore throat, runny nose
- Nausea, vomiting or diarrhea

The following are general preventive actions to help prevent the spread of COVID-19:

- Avoid touching your eyes, nose, and mouth.
- Stay home when you are sick.
- Cover your cough or sneeze with a tissue, then throw it in the trash.
- Clean and disinfect frequently touched objects and surfaces.
- Wash your hands for 20 seconds or use sanitizer that has at least 60% alcohol.

It is recommended that employees maintain physical distance to the extent possible. If required, employees must wear a face-covering over the nose and mouth when indoors. Contact your supervisor for exceptions.



HEALTH, HOUSEKEEPING AND HYGIENE PROCEDURES

- Employees who have symptoms of acute respiratory illness are recommended to stay home and not come to work until they are free of fever (100.4° +), signs of a fever, and any other symptoms for at least 24 hours, without the use of fever-reducing or other symptom-altering medicines.
- Any employee with a positive COVID-19 case will be excluded from the workplace until our return-to-work requirements are met.
- Employees should notify their supervisor and stay home if they are sick or to stay at home to take care of a sick relative.
- Employees are required to report symptoms and hazards and can do so without fear of reprisal.
- Employees who appear to have acute respiratory illness symptoms (i.e., cough, shortness of breath) upon arrival to work or become sick during the day will be separated from other employees and be sent home immediately.
- Sick employees should cover their noses and mouths with a tissue when coughing or sneezing.
- Use tissues and no-touch disposal receptacles.
- Employees are recommended to clean their hands often with an alcohol-based hand sanitizer that contains at least 60-95% alcohol or wash their hands with soap and water for at least 20 seconds. Soap and water should be used preferentially if hands are visibly dirty.
- Work policies and "stay at home" policies for employees with respiratory and viral illnesses, flu-like symptoms, and/or with open wounds will be considered.
- Maintenance of company facilities in a healthy and clean condition to prevent the spread of COVID-19.
- For additional safety tips, visit the Center for Disease Control (CDC) at: www.cdc.gov/coronavirus/2019-nCoV

GENERAL EMPLOYEE SAFETY REQUIREMENTS

- All employees are responsible for using safe work practices.
- Employees are encouraged to participate in the identification and evaluation of COVID-19 hazards.
- Stay compliant with required social distancing, personal protective equipment and other health and hygiene practices while on the worksite.
- Wear a face covering over your nose and mouth, exceptions apply.
- Maintain physical distance, to the extent possible.
- Minimize groups in small areas like breakrooms.
- Maintain that you are symptom free.
- Comply with health and/or temperature screening using a non-touch thermometer to minimize exposures (as needed).
- Do not share items that require regular physical contact to the extent feasible.
- Anyone who has been exposed to a COVID-19 case should get tested.

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Updated IIPP

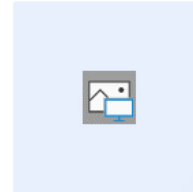
2022 Employee Safety Handbook

S&H Policy + IIPP + COSP + New Hire Checklist

Industries:

- Office/Admin
- General Industry
- Construction
- Light Construction

Need a 30-minute safety consult?
Contact safety@esminsite.com



Enter company name here
Employee Safety Handbook
(ESH)

Annual Safety Orientation
Updated 2022

Employee Name: _____

Employee Signature: _____

Date Training Provided: _____

Department: _____

This document provides policies, individual roles and responsibilities, general and specific training requirements and procedures necessary to ensure a safe work environment and safety program. Each employee will review this entire packet and will initial or sign as indicated in the packet to document individual review and understanding of the contents.

(Human Resources Copy)

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Thank you!



**Need assistance with mitigating risk?
We're here to help.**

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