



# REG **REVIEW**<sup>SM</sup>

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## **Shoe, Shoe! Away with You, Foot Hazards!**

When employees' feet are exposed to hazards in the work place, you need to provide the proper personal protective equipment (PPE) – usually foot protection. “But how am I supposed to pick the right foot protection when there are so many options?” No worries, there are ways to determine the right selection.

First, you'll want to assess the hazards at your workplace. OSHA's foot protection standard at 29 CFR 1910.136 applies whenever employees will be exposed to foot or leg injuries from falling or rolling objects, crushing or penetrating materials, hot substances, hazardous materials, and electrical hazards.

Next, match the foot protection to the hazard. For example, employees who work around electrical hazards need non-conductive foot-protection. The material should be able to prevent the workers' feet from completing an electrical circuit to the ground. These shoes can protect against open circuits of up to 600 volts in dry conditions and should be used in conjunction with other insulating equipment and additional precautions to reduce the risk of a worker becoming a path for hazardous electrical energy.

Other dangers such as falling objects or hot working surfaces also require foot protection. Having safety boots that are impact and heat resistant can protect employees from heavy objects that drop to the ground, or hot surfaces common in roofing and paving industries.

### ***Choosing from the options***

Foot protection is available for other work hazards including impacts, compression, welding sparks, molten metals, and punctures. Additionally, foot protection can be made up of various materials including leather, wool, metal, plastic, and steel. Choosing the correct options for your workers is up to you. You can guarantee their safety by picking a material that suits their working environments.

Finally, ensure that the foot protection does not create a hazard for your workers. Foot protection should be tied to fit just right. When foot protection use is required around any hazards, the safety equipment should not cause the worker to trip. Foot protection should always fit according to appropriate shoes sizes.

### ***Maintenance and replacement***

Employees should report problems concerning damaged or worn foot protection. By maintaining PPE, employees will always have the proper and reliable protection from dangerous hazards. Safety equipment must be in good condition to provide protection, and worn or unsafe equipment should be replaced.

## **The Confusing World of the DVIR**

It's a relatively simple document that causes a lot of confusion in the motor carrier world: The driver vehicle inspection report — also known as the DVIR. Who needs to complete the DVIR? When does it need to be completed? What needs to be included on the DVIR? How long does it need to be kept?

These are just some of the questions many motor carriers have when it comes to this document, which is required per Section 396.11 of the Federal Motor Carrier Safety Regulations (FMCSRs).

### **The basics**

#### **Who:**

The DVIR requirements apply to all commercial motor vehicles (CMVs) as defined in Section 390.5 of the FMCSRs. This definition includes:

- A vehicle or combination of vehicles rated or weighing 10,001 pounds or more;
- A vehicle of any size transporting placardable hazmat;
- A vehicle designed or used to transport more than 8 passengers (including the driver) for compensation; or
- A vehicle designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation.

#### **When:**

When to complete a DVIR depends on the type of vehicle being operated.

- Drivers of passenger-carrying vehicles must complete a DVIR at the end of each day's work on each vehicle operated, whether a defect exists or not.
- Drivers of all other CMVs must complete a DVIR whenever a defect is discovered by or reported to the driver or when company policies otherwise require it. Keep in mind that a vehicle may require multiple DVIRs in a single day if more than one person operates the vehicle that day.

#### **What:**

The report must identify the vehicle and cover (at least) the following parts and accessories:

- Service brakes including trailer brake connections,
- Parking (hand) brake,
- Steering mechanism,
- Lighting devices and reflectors,
- Tires,
- Horn,
- Windshield wipers,
- Rear vision mirrors,
- Coupling devices,
- Wheels and rims, and
- Emergency equipment

No specific format is required; however, the form must include space for three signatures:

- The signature of the driver who prepared the report,
- The motor carrier's or mechanic's signature certifying that the reported defects or deficiencies have been corrected or that no correction is necessary, and
- The reviewing driver's signature acknowledging the corrective action taken by the motor carrier.

**How:**

So how long must a driver and motor carrier keep the DVIR? A driver is not required to keep the DVIR on his/her CMV. That requirement went away 20 years ago.

The motor carrier must keep the DVIR for at least three months from the date that the written report was prepared. Failure to retain the DVIR could lead to fines and/or penalties during an audit or investigation. Including this retention requirement as part of a motor carrier's recordkeeping policy can assist in staying in compliance with this requirement.

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## **Developing Law: Medical Marijuana use Doesn't Require Drug Test Waiver**

Joe Employee suffered an occupational injury and was subsequently asked to take a drug test as a condition of continued employment. In response, Joe indicated that he would not pass the test because he was taking medical marijuana (among other legal drugs) for an old back injury (which the company knew about). The company stuck to their guns, however, and would not allow Joe to return to work unless he tested negative for marijuana.

Joe was put on suspension until he passed the test, but he filed a discrimination claim instead. He argued that, due to his disability, he sought a reasonable accommodation of having the drug test waived.

The court indicated that Joe didn't argue that he was discriminated against because of his disability, but rather that he was discriminated against because the employer did not accommodate his medical marijuana use by waiving a drug test. While related, these are two separate considerations.

For example, an employer's disapproval that an employee uses a wheelchair can be discrimination against the disability itself. Joe's case, however, is different. He performed his job fine for years and was not discriminated against until he was asked to take a drug test. The employer did not take issue with his disability, only with a consequence of his treatment.

The employer had no problem with Joe's other legal drugs, even though they were opiates, as they are not illegal under federal law. Joe countered that he provided a doctor's note indicating that he could perform the job safely while taking all the drugs, including marijuana. The company stood its ground.

The court turned to the fact that marijuana remains illegal under federal law, despite states reaching a different conclusion. It indicated that such state laws decriminalizing marijuana do not require an employer to accommodate its use, and that most courts have concluded that the decriminalization of medical marijuana does not shield employees from adverse employment actions. Simply, refusing to take a drug test is not a protected activity. Such state laws provide a potential defense to criminal prosecution or other adverse action by the state.

For this employer, it did not need to waive its drug testing requirement as a reasonable accommodation for medical marijuana (and other federally-prohibited drug) users.

*Cotto v. Ardagh Glass Packing, Inc., et al.*, N.J. District Court, No. 18-1037, August 10, 2018

Note: This decision relates only to New Jersey's medical marijuana law. A court might take a different view if a state law prohibits discrimination against medical marijuana users or requires an accommodation.

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## **Pest Control is Key for a Healthy Workplace Environment**

Vermin and pests are never wanted guests in the work environment. Be sure to regularly inspect your workplace for any possible infestations. Employees should always make sure that they are doing their part to mitigate and prevent the risk of a possible invasion.

### ***Identify problem areas***

By identifying problem areas, pest infestations can be easier to manage. For example, breakrooms are nesting grounds for small critters that are attracted to leftover food and beverage spills. Research has shown that flies and ants like to feed on leftover beverage splashes that are often found in breakroom areas.

Critters also thrive in workplace bathrooms. In most cases, flies, larvae, and silverfish enter in through drains and pipes that have a higher buildup of bacteria. If there is structural damage, they can also find pathways and enter through cracks and holes.

In both cases, if bugs appear, they can multiply and become a nuisance. Some of these critters may also carry bacteria and germs that can increase your employees' chances of becoming sick.

### ***Reducing the infestation***

Do you have employees that like to shoot trash baskets with their cans of soda? During these three-point shot attempts, spills and messes are likely to happen. Remind employees that they should always clean up after themselves during break time.

Ask employees to dispose of refrigerated products, and not leave foods to rot. When storing food and beverages, they should make sure that containers and lids are sealed tightly.

Never allow employees to bring food and beverages outside of break rooms and into working areas. They should not bring consumable products into bathrooms.

Ask employees to clean up bathroom messes. If there are water spots, dry them off quickly to reduce the chance of bacteria buildup. Ask employees to report any structural damage. Sealing the smallest cracks can reduce the risk of a bug infestation.

Remind employees that they are responsible for their working areas. Any trash or clutter should be disposed of right away. Bugs may be hiding underneath areas where clutter has been left to sit for long periods of time. This means keeping indoor areas free of clutter to avoid creating "housing" for pests and keeping outdoor areas clear to eliminate breeding areas that may cause pests to start moving indoors.

## **Watch Your Back! And Take Good Care Of It**

Back injuries can happen throughout daily life – at home, on vacation, and at work. Back injuries are generally caused by overexertion, awkward movements, or lifting and maneuvering heavy objects. In some cases, back injuries can even happen because of poor physical health, bad genetics, and other predispositions. In the workplace, back injuries are one of the leading causes of lost revenue, productivity, and employee absences.

From truckers who move dolly carts full of soda cans, to a desk receptionist, all employees are at risk of back injury. Whether handling materials daily or monthly, employees need to know how to safely lift and transport items. Supervisors should immediately address any unsafe lifting practices observed.

You may also want to remind employees to report any back problems immediately – before the condition becomes serious. For example, if an employee is taking ibuprofen to deal with daily back pain at work, he or she should report the discomfort. You or the supervisor may be able to adjust the work duties to prevent a more serious condition from developing.

Although back injuries may seem unavoidable, they can be prevented to an extent. If you start to notice a trend of back injuries on your OSHA's 300 and 301 Logs, investigate the causes. By documenting injury reports, you can calculate the trends and develop a plan of action to reduce the injuries.

### ***Investigation tips***

If you have employees affected by back injuries, then you know their struggles all too well. Track down the bad work-habits that lead to your employees' back problems.

Use these investigative tips to assist you on your mission against back injuries:

- Watch for employees that awkwardly twist while lifting heavy objects.
- With permission, video-record employees' movements for analysis and further training opportunities.
- Observe the surfaces that your employees stand on (wood, concrete).
- Estimate task exertion levels.
- Observe if work positions can be changed (sit/stand).
- Identify whether any tools are being used to assist your employees.
- Gauge to see if assisted measures can be taken (extra help, tools, or machinery).

Back injuries account for the largest portion of injuries amongst employees. Although the risks (and therefore the solutions) will differ with each job, you can develop a plan and protect your employees from future injuries.