



MJS Safety EXPANSION

• **We've Doubled our Office Space** •
 More Room for Fit Testing, Audiometric Testing
 and Operator Qualifications
 As Well As Drug Testing Collections

▶ MJS SAFETY TRAINING ANNOUNCEMENT

MJS SAFETY LLC is proud to announce the addition of NCCER and O.Q.S.G. to our OQ Services. **MJS SAFETY LLC** is an "Authorized Assessment Center" for Proctoring Final Assessments and completing Performance Evaluations for O.Q.S.G. and NCCER – as well as other OQ disciplines such as MEA-EnergyU, Veriforce & EnergyWorldNet. [call to schedule](#) [read more...](#)

▶ **Schedule of classes May 2019:** • *TRAINING CENTER - 1760 BROAD ST, UNIT H, MILLIKEN, CO 80543* • [read more...](#)

OSHA / CONSTRUCTION NEWS SUMMARY

▶ OSHA Tip for the Week of April 1, 2019

You Must Be Medically Evaluated Before Wearing A Respirator. [read more...](#)

▶ Sixth Annual National Fall Stand-Down

Thousands of worksites will join **OSHA** and its partners for the annual [National Safety Stand-Down to Prevent Falls in Construction](#) with events across the country from May 6-10. [read more...](#)

▶ AS A FOLLOWUP TO LAST MONTH'S ARTICLE ON WHISTLEBLOWER Protection Programs..

U.S. Department of Labor to Hold Meeting to Solicit Public Input on OSH Act Whistleblower Protection Provision
 OSHA will hold a meeting **May 14, 2019**, in Washington, D.C., to **solicit public comments** and **suggestions** from stakeholders on issues relating to [whistleblower protection](#) under **Section 11(c)** of the [Occupational Safety and Health Act](#). [read more...](#)

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TRANSPORTATION NEWS SUMMARY

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A new law in **Colorado** requires the state's **Department of Transportation** to conduct a study about whether trucks **hauling hazardous materials** should be allowed to drive through the **Eisenhower-Edwin C. Johnson Memorial Tunnel** on I-70. [read more...](#)



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The annual **International Roadcheck** 72-hour inspection blitz will be held June 4-6 with a focus on **steering and suspension systems**. [read more...](#)



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▶ **CONE ZONE *Safe Driving Tips***



Construction zones are everywhere. It's extremely important to follow some simple, basic rules to keep the workers, other drivers, and yourself safe when navigating these areas! [read more...](#)

...in review

▶ **DOT Submits Proposed Rule Change for HOS Regulations**

The **Department of Transportation** sent its **Notice of Proposed Rulemaking** to reform **hours-of-service regulations** to the **Office of Management and Budget**. [read more...](#)

▶ **Industry Comments Lean Toward Adjusting HOS Rules, FMCSA's Jim Mullen Notes**

Jim Mullen, chief counsel for the **Federal Motor Carrier Safety Administration**, indicated that the bulk of the more than **5,000** online comments the **agency received** regarding potential **changes to hours-of-service rules** supported **tweaking the regulations** to increase **flexibility**. [read more...](#)



▶ **DOT Publishes Drug Testing Rule**

On April 23, 2019, the **Department of Transportation** published a **final rule** that makes **minor technical corrections** to the **OST, FAA, FTA, and PHMSA regulations**.....added requirements to **test for oxycodone, oxymorphone, hydrocodone, and hydromorphone** to **DOT-regulated drug testing programs**. [read more...](#)

▶ **Trucking Law**

RETURNING TO DRIVING AFTER A HEART ATTACK [read more...](#)

THINGS TO CONSIDER AFTER AN ACCIDENT [read more...](#)

YOUR GUN RIGHTS ON PRIVATE PROPERTY [read more...](#)

MSHA NEWS SUMMARY

▶ **Newly Hired to Work at a Mine Site?**

If you are about to begin working at a mining operation, there is some important information of which you need to be aware.

If you have been hired to work in the mining industry, you are considered a "miner" under the **Federal Mine Safety and Health Act of 1977**. [read more...](#)



▶ **SPRING THAW TRAINING WORKSHOPS**

Statistics show that **mining accidents** tend to **increase** during **April and May** when many **intermittently operated mining operations** begin **producing** again, often with **new employees** who are **unaware** of the **hazards** of mining. [read more...](#)

MONTHLY SAFETY & HEALTH TIP NEWS SUMMARY

▶ **Eliminate 10 Fire Hazards That May Be in Plain Sight**

Smoke alarms, carbon dioxide detectors, and hazardous gas sensors need to be tested and sometimes calibrated regularly to ensure they will function properly when needed. [read more...](#)



MJS SAFETY TRAINING ANNOUNCEMENT

MJS SAFETY LLC is proud to announce the addition of NCCER and O.Q.S.G. to our OQ Services.

MJS SAFETY LLC is an "Authorized Assessment Center" for Proctoring and Testing for ENERGY worldnet, Inc., as well as OQ Performance Evaluation Services.

MJS SAFETY LLC continues to offer Proctor and Testing Services, as well as Operator Qualification [OQ] Performance Evaluations under the "EnergyU" system – a service of Midwest ENERGY Association – as well as Veriforce.

MJS SAFETY LLC has "Authorized" Performance Evaluators on staff that can perform this service for specific "Covered Tasks."

MJS SAFETY LLC is also available to assist with the Knowledge Based Training for these tasks. Knowledge-based training is designed to help personnel successfully pass the OQ Knowledge Based Testing as well as the Performance Evaluation process.

The Operator Qualification Rule – commonly referred to as the "OQ Rule" addressed in Title 49 of the Code of Federal [US DOT] regulations, mandates that individuals who perform "Covered Tasks" on covered pipeline facilities be qualified through the Operator Qualification Process.

The intent of the OQ rule is to ensure protection of both pipeline personnel and the public at large. Providing individuals with the necessary knowledge and skills is an essential element of any Operator and Contractor OQ plan.

Acceptable requirements for qualification are determined by the operator. The quality and validity of data related to OQ training, testing, and performance is critical to meet these requirements.

If we can be of assistance with these types of services for your company, please [call to schedule](#).

MJS Safety — your "GO TO" Safety Resource in 2019

"SAFETY STARTS WITH YOU"

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

Just Some of the Courses Offered Include:

- ~PEC SafelandUSA Basic Orientation
- ~OSHA 10 Hour General Industry
- ~OSHA 30 Hour General Industry
- ~NUCA Confined Space
- ~Hydrogen Sulfide [H₂S] - Awareness
- ~Respirator: Medical Evaluation & Fit Testing
- ~Hazard Communication – GHS Training
- ~Teens & Trucks Safety
- ~1st Aid/CPR Course- Medic 1st Aid
- ~HAZWOPER 8, 24 & 40 Hour
- ~PEC'S Intro to Pipeline
- ~Confined Space Rescuer Training
- ~PEC Core Compliance
- ~OSHA 10 Hour Construction
- ~OSHA 30 Hour Construction
- ~NUCA Competent Person for Excavation & Trenching
- ~Hands-on Fire Extinguisher training
- ~DOT Hazmat Training
- ~MSHA Sand & Gravel Training [Part 46 only]
- ~Fall Protection for the Competent Person
- ~Defensive Driving Safety for large and small vehicles
- ~Instructor Development for Medic 1st Aid/CPR
- ~Bloodborne Pathogens Compliance Training
- ~Respiratory Protection Training

► **MJS SAFETY offers these courses as well as custom classes to fit the needs of your company**

Schedule of classes May2019: • TRAINING CENTER - 1760 BROAD ST, UNIT H, MILLIKEN, CO 80543

- PEC Safeland Basic Orientation: May 3, 14, 23; 8 – 4:30
- First Aid/CPR/AED/BLOODBORNE PATHOGENS (We offer MEDIC FIRST AID): May 6, 21; 8 – noon
- TEEX H2S Operator Training – Awareness (ANSI Z390-2017 Course): May 6, 21; 12:30 – 4:30
- Excavation & Trenching Competent Person (NUCA Course): Call to schedule a class

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

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

Go To mjssafety.com FOR UP-TO-DATE CLASS LISTINGS
 To sign up for one of these classes, or inquire about scheduling a different class
 Call Carrie at 720-203-4948 or Jeremy at 720-203-6325 or Mike at 303-881-2409

- FEATURED TRAINING PROGRAMS —**
- Safeland Basic Orientation • Hydrogen Sulfide Awareness • First Aid/CPR
 - OSHA 10 Hour for General Industry or Construction • Confined Space for Construction
- ALSO OFFERING —**
- PEC Basic 10 — 2 days that cover both Safeland and OSHA 10 for General Industry in 1 class

Unable to attend a class?

MJS SAFETY offers multiple "ONLINE TRAINING COURSES" including OSHA Construction, General Industry, Environmental, Hazardous Waste Public Safety, DOT, Human Resource, Storm Water & ISO Training Courses.

Order
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& other
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Online courses provide a convenient way for
EMPLOYERS & EMPLOYEES to complete
MANDATED, REQUIRED or HIGHLY RECOMMENDED
training in today's industry

~ **MANY COURSES ARE ALSO AVAILABLE IN SPANISH** ~

FOR ADDITIONAL INFORMATION CALL

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 ■ PEC/Premier
 ■ PICS
 ■ BROWZ
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 Occupational Safety & Health
 MSHA
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 CDOT
 Dr. Alexander E. Underwood
 Brad Klepper
 Joseph Fried
 Summit Daily



OSHA / CONSTRUCTION

OSHA Tip for the Week of April 1, 2019

TIP OF THE WEEK

You Must Be Medically Evaluated Before Wearing A Respirator.

Respirator Medical Evaluation Questionnaire

Respirators must be used in workplaces in which employees are exposed to hazardous airborne contaminants. When respiratory protection is required, employers must have a respirator protection program as specified in OSHA's Respiratory Protection standard (29 CFR 1910.134). Before wearing a respirator, workers must first be medically evaluated using the mandatory medical questionnaire or an equivalent method. To facilitate these medical evaluations, this [INFOSHEET](#) includes the mandatory medical questionnaire to be used for these evaluations.

NATIONAL SAFETY STAND-DOWN
TO PREVENT FALLS IN CONSTRUCTION

Sixth Annual National Fall Stand-Down

MAY 6-10, 2019

Thousands of worksites will join **OSHA** and its partners for the annual [National Safety Stand-Down to Prevent Falls in Construction](#) with events across the country from May 6-10.

Employers and workers will pause during the workday to talk about fall hazards, **OSHA** compliance, and industry best practices to prevent falls in all workplaces.

The lack of proper fall protection is the [most frequently cited OSHA violation](#). Share your Stand-Down story on social media, with the hashtag: **#StandDown4Safety**.

Under the Occupational Safety and Health Act of 1970, employers are responsible for providing safe and healthful workplaces for their employees. **OSHA's** role is to help ensure these conditions for America's working men and women by setting and enforcing standards, and providing training, education and assistance.

AS A FOLLOWUP TO LAST MONTH'S ARTICLE ON WHISTLEBLOWER Protection Programs...

U.S. Department of Labor to Hold Meeting to Solicit Public Input On OSH Act Whistleblower Protection Provision

The U.S. Department of Labor's **Occupational Safety and Health Administration (OSHA)** will hold a meeting **May 14, 2019**, in Washington, D.C., to **solicit public comments** and **suggestions** from stakeholders on **issues relating to whistleblower protection** under **Section 11(c)** of the **Occupational Safety and Health Act**.

This is the **third** in a series of **meetings** at which **OSHA** is seeking **public input** on how it can **improve whistleblower customer service**, and enhance **public understanding** of the **whistleblower laws** the **agency enforces**.

The **meeting** will be **held from 1:00 p.m. - 4:00 p.m. EDT** at the **U.S. Department of Labor**, Frances Perkins Building, 200 Constitution Ave., NW, Washington, DC 20210 in Room S-3215A-C.

As **discussed** in more detail in the **Federal Register notice** announcing this **meeting**, the public may **submit** written or **electronic comments** by **May 7, 2019**. In particular, **OSHA** is **interested** in **comments** on how it can **deliver better whistleblower customer service**, and the **types of assistance** it can **provide** to explain the **whistleblower laws** it **enforces**. All materials may be **submitted electronically** at <http://www.regulations.gov>, which is the **Federal eRulemaking Portal** using **OSHA Docket No. OSHA-2018-0005**.



OSHA is partnering with worker safety organizations on **#MySafeSummerJob**, a **social media campaign** to educate **young workers** about their **rights** in the workplace, how to speak up about **dangerous work conditions**, and how to protect themselves on the job. Join **OSHA**, the U.S. Department of Labor's Wage and Hour Division, and others, **now through May 17**, to promote safety among young workers. Get materials and ideas... [#MySafeSummerJob website](#).

Colorado DOT to study Allowing Hazmat Trucks to travel through I-70's Eisenhower Tunnel

A new law in Colorado requires the state's Department of Transportation to conduct a study about whether trucks hauling hazardous materials should be allowed to drive through the Eisenhower-Edwin C. Johnson Memorial Tunnel on I-70.



Currently, trucks hauling hazmat are banned from using the tunnel and must use Loveland Pass (U.S. Highway 6), except when the pass is closed during adverse winter conditions. In these situations, Colorado DOT closes the tunnel to all other traffic and escorts the hazmat loads through the tunnel.

The law, signed by Colorado Gov. Jared Polis on April 9, requires CDOT to study the feasibility of allowing hazmat transportation through the tunnel and to report on whether and under what conditions hazmat through the tunnel should be allowed. The law calls for the report to be completed by Dec. 1, 2020.

The tunnel is approximately 1.7 miles long, according to CDOT. A report from Summit Daily notes that local safety officials are concerned that a fire or other hazmat hazard in the center of the tunnel could create difficulties for people getting out of the tunnel and emergency personnel getting into the tunnel.

The trucking industry in Colorado is in favor of allowing hazmat trucks to travel through the tunnel due to the difficulty of traversing Loveland Pass, especially in the winter, according to Colorado Motor Carrier Association President Greg Fulton.

Inspectors to Focus on Steering, Suspension During June's Roadcheck Inspection Blitz

The annual International Roadcheck 72-hour inspection blitz will be held June 4-6 with a focus on steering and suspension systems.



The Commercial Vehicle Safety Alliance, which conducts the event each year, says steering and suspension are critical for all commercial vehicles.

"Not only do they support the heavy loads carried by trucks and buses, but they also help maintain stability and control under acceleration and braking, keeping the vehicle safely on the road," says CVSA President Chief Jay Thompson with the Arkansas Highway Police. "Furthermore, they keep tires in alignment, reducing chances of uneven tire wear and possible tire failure, and they maximize the contact between the tires and the road to provide steering stability and good handling."

Inspectors will primarily conduct Level I inspections on most rigs checked during the three-day blitz. Level I inspections are the most thorough, including examination of both driver compliance and vehicle-related violations.

Inspections will include checks of brakes, cargo securement, lights, steering, suspension, tires and more. Drivers will also be required to provide their CDLs, Medical Examiner's Certificates, logs and more. If no violations are found, inspectors will issue a CVSA decal that indicates the vehicle has passed an inspection.

"International Roadcheck is a high visibility, three-day commercial motor vehicle and driver inspection and enforcement event," Thompson adds. "However, aside from the increased inspections, we are not doing anything differently than any other day. The inspections performed during International Roadcheck are the same inspections that are conducted the day before International Roadcheck starts and the day after it concludes, as well as any other day of the year."

CVSA says approximately 17 trucks and buses are inspected, on average, every minute during the Roadcheck blitz.

Last year's event sidelined nearly 12,000 trucks and buses and more than 2,600 drivers with out-of-service orders. Brakes, tires and wheels, and brake adjustment were the top three vehicle out-of-service violations issued during 2018's Roadcheck. The top driver out-of-service violations were hours of service, wrong class license and false logs.

See a [chart](#) showing specific out-of-service numbers from 2018's Roadcheck.

Crash Not Your Fault? FMCSA Says Soon it Won't Hurt our CSA Score

Beginning in August, the **Federal Motor Carrier Safety Administration** plans to make permanent a demonstration program that allows truck crashes in which the driver was not at fault to be listed as “not preventable” in **Compliance, Safety, Accountability** program scores.

“Based on positive feedback from industry stakeholders, the department will propose to make this demonstration program permanent,” **Transportation Secretary** Elaine Chao said in a March 29 speech at the **2019 Mid-America Trucking Show**. Chao noted that **DOT** had launched its **Crash Preventability Demonstration Project** on Aug. 1, 2017 for a two-year run that will conclude at the end of July.

A spokesman for the **Federal Motor Carrier Safety Administration** told **Transport Topics** that the demonstration program can be made permanent without a formal rulemaking.

The program currently classifies a crash as “not preventable” on a carrier’s **Safety Measurement System** profile in instances where the carrier is not at fault. However, before that determination can be made, a carrier must submit a request for data review through the agency’s **DataQs** system, attaching documentation that establishes the carrier could not have avoided the crash.

“We are encouraged that the agency is looking at extending this program,” Daniel Horvath, director of safety policy for **American Trucking Associations** stated. “Crash preventability has been something that carriers have wanted for years. We’re also looking forward to working with **FMCSA** on the potential for expanding the types of crashes that can be **DataQ-ed**.” Currently there are only eight categories of crashes that can be challenged.

Prior to the demonstration project, fatal crashes listed on a carrier’s safety profile did not contain information on whether the carrier was at fault in the crash. Under the demonstration program, if a crash is found to be not preventable, a carrier’s private **Crash Indicator Behavioral Analysis Safety Improvement Category (BASIC)** score would be recalculated with the crash omitted. **BASIC** scores underpin carrier ratings in the **CSA** program.

Under the demonstration program, to be considered for a “not preventable” rating, a crash must have resulted in a fatality, bodily injuries requiring immediate medical treatment away from the scene of the crash, or a vehicle being towed from the scene of a crash.



There are eight types of crashes that would be automatically eligible for a review. They include a crash in which a commercial motor vehicle is struck by a motorist driving under the influence, struck by a motorist driving in the wrong direction, struck in the rear, or being struck when the commercial motor vehicle is legally stopped or parked.

Other crashes that can be reviewed include those in which an individual attempts to commit suicide by stepping or driving in front of a CMV, a crash that damages a CMV after striking an animal in the roadway, a crash in which a CMV is struck by objects such as falling trees or rocks and instances in which a vehicle is struck by cargo or equipment from another vehicle.

However, Chao said that the agency will review other possible crash scenarios to possibly expand the current eight categories.

“Studies show that crash involvement is a strong indicator of future crash risk,” said an agency program overview. “The **Crash Preventability Demonstration Program** allows **FMCSA** to gather data to examine the feasibility, costs, and benefits of making crash preventability determinations on certain crash types. **FMCSA** will use the information from the program to evaluate if these preventability determinations improve the Agency’s ability to identify the highest-risk motor carriers.”

The demonstration project was an about-face for the agency. Despite longtime pressure from the trucking industry, **FMCSA** concluded in a study made public in January 2015 that it did not have a foolproof path to follow for quickly assessing fault in crashes and then using those judgments to predict future risk among trucking companies.

At the time, the agency said it examined nearly 11,000 police reports on accidents involving trucks and buses, and found discrepancies among the reports and no clear way to use fault assessment to produce a superior model for predicting future crashes as part of the **CSA** program.

Originally, the agency was planning in 2012 to implement a much-anticipated **CSA** program process that would have allowed carriers to seek an accountability review of crashes that went on their safety records. However, in March 2012, then-**FMCSA** Administrator Anne Ferro announced that the agency would delay “until further notice” its plans to use police accident reports as the basis for fault determination.

At the time, Ferro said the agency and then-**Transportation Secretary** Ray LaHood had received feedback from a few public interest groups raising questions about the “reliability” of police accident reports as the primary basis for the crash accountability determination process.

CONE ZONE

Safe Driving Tips



Construction zones are everywhere. It's extremely important to follow some simple, basic rules to keep the workers, other drivers, and yourself safe when navigating these areas!

Use these safe-driving tips when traveling through cone zones.

REMEMBER: In Colorado, the fines are doubled for most infractions in a work zone.



Expect the Unexpected

Normal speed limits may be reduced, traffic lanes may be changed, and people may be working on or near the road.



Slow Down

Speeding is one of the major causes of work zone crashes.



Don't Tailgate

Keep a safe distance between your car and the car ahead of you. The most common crash in a highway work zone is a rear-end collision, so leave two car lengths between you and the car in front of you.



Be Aware of Construction Crews

Keep a safe distance between your vehicle, and the construction workers and their equipment.



Heed Signs

The warning signs are there to help you and other drivers move safely through the work zone. Observe the posted signs until you see the one that says you've left the work zone.



Obey Flaggers

Flaggers know what's best for moving traffic safely in the work zone. A flagger has the same authority as a regulatory sign; you can be cited for disobeying his or her directions.)



Stay Alert and Minimize Distractions

Dedicate your full attention to the roadway, and avoid changing radio stations or using cellphones while driving in a work zone.



Keep with the Traffic Flow

Help maintain traffic flow and posted speeds by merging as soon as possible. Don't drive right up to the lane closure and then try barge in.



Plan Your Drive

Schedule enough time to drive safely, and check radio, television and websites for traffic information. Expect delays, and leave early so you can reach your destination on time.



Be Patient and Stay Calm

Work zones aren't there to personally inconvenience you. Remember: The work zone crew members are working to improve the road and make your future drive better.

...in review

DOT Submits Proposed Rule Change for HOS Regulations

The Department of Transportation sent its Notice of Proposed Rulemaking to reform hours-of-service regulations to the Office of Management and Budget.

Transportation Secretary Elaine Chao announced on March 29 at the Mid-America Trucking Show in Louisville, Ky., that the NPRM had advanced. The contents of the notice are not yet public.

Chao was not able to go into the details or the specifics for this proposal, but said that the department understands the strong interest in increasing flexibility and is giving it serious consideration. Chao said. "We asked for your participation, and you participated."

FMCSA Chief Ray Martinez acknowledged that he can't prejudge OMB's action on the proposal, but he expressed optimism that it will keep moving "on a fast track."

Martinez's appearance at MATS marks the one-year anniversary of his time as administrator. He said events with truckers are vital ways for him to stay in touch with the people his agency regulates. "We've got to break down this feeling from the trucking community that we're not listening," Martinez said. "That's not what the president wants, that's not what the secretary wants, and that's certainly not what I want."

American Trucking Associations Spokesman Sean McNally said the group plans to provide comments on the proposal when it is made public.

"ATA is pleased that the much-needed review and reform of the hours-of-service rules has progressed to the point where a proposal has been sent to the White House for its review," McNally said. "While we do not know what the proposal contains, we will be closely monitoring and participating in this process."

The Owner-Operator Independent Drivers Association was pleased with the progress. The organization petitioned the FMCSA in 2018 regarding what it deemed necessary changes to the regulations that govern commercial truck drivers and the hours they work and drive.

"We thank the secretary and the agency for hearing the concerns of our members," OOIDA President Todd Spencer said in a statement. "We look forward to working with them on finalizing solutions that meet the realities of freight movement and truly improve highway safety."

FMCSA officials combed through thousands of comments and gathered input on potential rule changes for months before submitting the NPRM to the White House. The agency published an Advance Notice of Proposed Rulemaking on Aug. 23 concerning the shorthaul HOS limit, the HOS exception for adverse driving conditions, the 30-minute rest-break provision and the split sleeper-berth rule to allow drivers to divide their required rest time in the sleeper berth.

The ANPRM garnered more than 5,200 comments by the time the comment period closed Oct. 10. The agency also hosted five listening sessions nationwide to gather industry feedback.

In its ANPRM, the agency sought answers from stakeholders in four general areas:

- Should the agency expand the current 100 air-mile "shorthaul" exemption from 12 hours on-duty to 14 hours on-duty, to be consistent with the workday rules for longhaul truck drivers?
- Is there adequate flexibility in the adverse driving exception that currently expands driving time by up to two hours?
- If the 30-minute rest break after eight hours of driving did not exist, would drivers obtain adequate rest breaks throughout a daily driving period to relieve fatigue?
- Do you have information that would support reinstating the option for splitting up the required 10-hour off-duty rest break for drivers operating trucks with sleeper-berth compartments?

During remarks at American Trucking Associations' Management Conference & Exhibition FMCSA Chief Counsel Jim Mullen said that the majority of respondents recommended eliminating the 30-minute rest break. Mullen noted many drivers claimed they don't mind taking 30-minute breaks but would rather not be told when to take them.

Industry Comments Lean Toward Adjusting HOS Rules, FMCSA's Jim Mullen Notes

Jim Mullen, chief counsel for the **Federal Motor Carrier Safety Administration**, indicated that the **bulk** of the **more than 5,000** online comments the **agency received** regarding potential **changes to hours-of-service rules** supported **tweaking the regulations** to increase **flexibility**.

FMCSA officials **sifted through** them to **determine potential changes** and **assess the safety implications** such changes would **entail**.

Mullen said before a **crowd** of industry members at **American Trucking Associations' Management Conference & Exhibition** on Oct. 28th. **"We must and we will respond to all 5,200 comments."**

The **majority of responders** recommended **eliminating** the **30-minute rest break**. Mullen said **many drivers** claimed they **don't mind taking 30-minute breaks** but would **rather not** be told **when to take them**.

Commenters **also responded** in **favor** of allowing **sleeper berth drivers** to divide their **rest time** instead of **resting for 10 hours straight**. The **top vote** among **responders** was for dividing **rest hours** into a **5/5 split**. Mullen **acknowledged** the plethora of **sleep studies**, which run the **gamut** of **defending** both **long**, **restorative rest** and **short sleep breaks**.

The **responses** reflected a **strong desire** to **extend the 100 air-mile "shorthaul" exemption** to **150 air-miles**.

Respondents also supported **adding two hours of driving time** in the case of **adverse conditions**. Mullen said the **agency**

also has **decided to reassess** what constitutes **adverse conditions**.

Mullen said the **electronic logging device mandate**, which took **effect** in December, was a **key step** in **considering possible changes to HOS rules**.

"The **ANPRM** is not **definitive**," Mullen said. "These are the **issues** we wanted **feedback** on. We want to **get it right**."

For **most of the hourlong session**, Mullen took **questions** from **audience members**. Kevin Stewart, **president** of the **Pennsylvania Motor Truck Association**, said he **appreciated** the session because it **allowed drivers and trucking executives** to get an **idea** of the **comments** without having to read **thousands** of them.

Stewart said, "I thought the **session** was **excellent**. Unless you **sit there** and **read through** all **5,000 comments**, it's kind of **nice** to know where **those comments** are ranked."

Houston Brittain, director of **risk management** for Miller Truck Lines (*based in Tulsa, Okla.*), **attended** the **session** to learn about **possible changes to HOS rules**, which his drivers **frequently ask** him about.

Brittain said **FMCSA's openness** to **hearing from industry representatives** through **listening sessions** is a **positive sign**. "It seems to me we have a **pretty good relationship** with **FMCSA** that they're **willing to sit and listen to us**. I feel **very confident** that they're **listening to us** and **doing everything** they can to **help us**."



▶ DOT Publishes Drug Testing Rule ◀

On April 23, 2019, the **Department of Transportation (DOT)** published a **final rule** that makes **minor technical corrections** to the **OST, FAA, FTA, and PHMSA regulations** governing **drug testing** for **safety-sensitive employees** to ensure **consistency** with the **recent amendments** made to the **Department of Transportation's** regulation, **"Procedures for Transportation Workplace Drug and Alcohol Testing Programs"** which added requirements to test for **oxycodone, oxymorphone, hydrocodone, and hydromorphone** to **DOT-regulated drug testing programs**.

The **changes to the Department's regulation** make it **necessary** to refer to these **substances**, as well as the **previously covered** drugs **morphine, 6-acetylmorphine, and codeine**, by the **more inclusive** term **"opioids,"** rather than **"opiates."** This **rule amends** the term in the **FAA, FTA, and PHMSA regulations** to ensure that **all DOT drug testing rules** are **consistent with one another** and with the **Mandatory Guidelines for Federal Workplace Drug Testing Programs**.

In **addition**, this **rule** makes a **conforming amendment** to **include** the term **"opioids"** in the **wording** of the **Department's annual information collection requirement** and **clarifications** to **section 40.26** and **Appendix H** regarding the **requirement for employers** to follow the **Department's instructions** for the **annual information collection**.

Trucking Law

RETURNING TO DRIVING AFTER A HEART ATTACK

Expert Source: Dr. Alexander E. Underwood, KT Health Clinic near Springfield, Missouri.

How soon can I get back to driving after a heart attack?

Unfortunately, the rate of cardiovascular disease and incidence of myocardial infarction, commonly known as a heart attack, is significantly higher among truckers than the national average.

Many drivers who've experienced heart attacks have returned to work, but the Federal Motor Carrier Safety Administration has established some time-consuming hurdles to ensure you don't pose a safety risk.

After a heart attack, you will be hospitalized from one day to several weeks. To return to driving, your cardiologist will need to clear you in writing. You'll also have to have a satisfactory stress test and a test showing at least 40 percent with your left ventricular ejection fraction (LVEF), a measure of how well your heart is pumping.

Why do I need a urine test for my physical?

Drivers coming for a U.S. Department of Transportation physical often are surprised at having to provide a urine sample. "I have to do a drug test right now?" is one of the most common responses I get.

I explain this is simple urinalysis, not a drug test. A certified medical examiner tests your urine for glucose, protein and blood. In a healthy patient, none will be present. However, it is not uncommon to see one or more of those, and their presence in the urine does not necessarily indicate a serious underlying illness.

When a problem is detected, discretion about professional driving is left to the examiner. The CME may put your examination on hold until you see a primary doctor or get further testing, or you might get temporary clearance to drive while you see a primary care doctor or get tested.

Glucose in the urine (glycosuria) has various causes, but the usual culprit is diabetes mellitus. When blood levels of glucose

Then you still face a mandatory two-month waiting period before you can resume commercial driving. If you do not tolerate your medications or cannot meet the stress testing and LVEF standards, you will be disqualified from driving.

Otherwise, you then can go to a certified medical examiner for your CDL physical. As someone who's had a heart attack, your certification will now be limited to one year. FMCSA also requires you to pass a stress test at least every two years.

When you visit a CME, you'll need these documents:

- Hospital discharge
- Clearance from cardiologist
- Stress testing report
- Medication list.
- Echocardiogram or nuclear testing showing an LVEF at least 40 percent

remain too high for too long, the kidneys no longer reabsorb this sugar, so it spills into the urine. Other less common kidney diseases and even some medications also can cause glycosuria.

Protein in the urine (proteinuria) also has multiple causes. Damage to the kidneys through hypertension and diabetes are common causes. Others can be toxin exposure, infections and medications.

Blood in the urine (hematuria) might not be visible but can be detected by a urine dipstick. Kidney stones, bladder or kidney infections and certain types of cancer can cause hematuria.

DOT's required urinalysis might save your life. I have discovered patients with untreated diabetes, cancer, kidney disease and other issues much sooner than if they had waited for symptoms to appear.

THINGS TO CONSIDER AFTER AN ACCIDENT

Expert Source: Atlanta based attorney, Joseph A. Fried - specializing in trucking cases.

If you are in a crash, when are you required to be drug/alcohol tested?

And what are the ramifications if you refuse testing?

This is governed by 49 CFR 382. In short, if you are in a crash that involves a fatality, you must be tested. This is true whether the crash was your fault or not, whether you got a citation or not, and regardless of what the police or your carrier say about it.

If there is no fatality, you are required to be tested only if you are cited by the police for a moving violation. If you don't submit to testing in a timely way when it's required, you are in violation of federal law. You also may open yourself up to some evidentiary presumptions against you.

If you are in a crash, what should you do with your cell phone?

If you are in a wreck, someone is going to want to examine your phone to see if you were using it in the time leading up to the crash. When I say using it, that includes more than talking on it or texting with it. I also mean streaming audio or video or using any apps, including GPS.

It is not illegal to do certain things with a cell phone while driving, but it is illegal to be distracted while driving.

So what should you do with your phone if you're in a wreck? Immediately talk to your safety representative and lawyer about whether you should preserve your phone. If you were not doing anything wrong with the phone, preserving it proves so.

If you don't preserve it, the other side may suggest that you didn't because you were up to no good. If that's the case, you need to let your safety director or lawyer know so that they can decide how to address the situation. Whatever you do, you don't want to get caught lying about cell phone use.

Are you required to cooperate with the motor carrier's attorney when you've been in a crash?

Legally you probably are not required to cooperate, but in most circumstances you probably should. The lawyer should be looking out not only for the motor carrier's best interest, but for yours as well.

But what if you feel that you are not being represented properly? After all, there can be internal conflicts in cases.

When that happens, you don't want to be represented by the same lawyer who's representing the motor carrier. Ask to have a separate lawyer assigned to you. If the carrier won't provide one, you may want to retain a lawyer yourself.

YOUR GUN RIGHTS ON PRIVATE PROPERTY

Expert Source: Brad Klepper, president of Interstate Trucker, a law firm dedicated to defending drivers - also president of the discount services firm Drivers Legal Plan.

While the right to keep and bear arms is confirmed in the Second Amendment to the U.S. Constitution, in essence each state will determine the extent to which the right applies within its borders. (Don't blame me – it just is what it is.) For what it's worth, state laws also are applicable to the legality of carrying a gun in your truck across state lines, which makes the practice as complicated as it sounds.

Many fleets have long prohibited bringing guns onto their property, claiming such a policy increases safety. Also, they simply felt that they should be able to control what is allowed on their private property.

In response, advocates of gun rights countered that the Second Amendment confirms the constitutional right to keep and bear arms and that they should have the right to carry firearms for self-defense. This issue eventually made its way to the courts.

One of the first cases to address the matter was *Bastible v. Weyerhaeuser Company*. The Tenth Circuit Court considered whether the right to bear arms granted by the Oklahoma Constitution trumped an employer's right to ban firearms on company property. The court ruled that the right to possess firearms was not superior to the rights of a private property owner to regulate what is brought onto his property.

This holding created quite a stir. After this case was decided, the Oklahoma Legislature enacted a statute prohibiting employers from banning firearms in employee vehicles. The *Bastible* holding played a part in the growth of gun rights legislation.

During the past 20 years, numerous states have adopted "workplace protection" or "parking lot" laws that limit employers' ability to prohibit firearms on their properties. These states include Alabama, Alaska, Arizona, Arkansas, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, Tennessee, Texas, Utah and Wisconsin.

The statutes generally say an employer may not restrict a person from transporting or storing a firearm in a locked vehicle in any parking lot, parking garage or other designated area unless the possession of such firearm is prohibited by state or federal law. Some states also limit this employer prohibition to parking areas accessible by the public. Some states require that the firearm be stored in a locked compartment.

Other states tend to favor the rights of the property owner. Many times the language supporting the rights of the property owner can be found in the states' concealed carry statute. These statutes often grant property owners the right to prohibit firearms on their premises and include language extending that right to all the property. This can be read to include parking lots and other public access areas. Many of these statutes have not been challenged in court, so it is unclear how well they would stand up.

What does this mean for the trucking industry? Drivers whose fleets have terminals in multiple states likely will be subject to different laws regarding the right to bring firearms onto a fleet's property. So a simple "yes or no" answer to the original question isn't possible. To make sure you are in compliance, work with your fleet, and know the applicable law of any state in which you drive.

Newly Hired to Work at a Mine Site?



If you are about to begin working at a mining operation, there is some important information of which you need to be aware.

If you have been hired to work in the mining industry, you are considered a "miner" under the ***Federal Mine Safety and Health Act of 1977***. The **Mine Safety and Health Administration (MSHA)** operates under the authority of this Mine Act. The United States Congress created **MSHA** to help reduce fatalities, injuries and illnesses among miners in our nation's mines through a variety of activities, including on-site mine safety and health inspections.

As a miner, you have certain rights and responsibilities where safety and health are concerned. Please take a look at this single source page, [Guide to Miner's Rights](#) and **Responsibilities Under the *Federal Mine Safety and Health Act of 1977***."

In an effort to promote increased safety in the mining industry, **MSHA** and the **Joseph A. Holmes Safety Association** recognizes miners who work safely for extended periods of time as official "Professional Miners" under a program begun in 2004. **MSHA** encourages all miners to work safely on the job each shift of every day. The **U.S. mining industry** is safer today than ever before. Fewer miners were fatally injured on the job in recent years than ever before in history. However black lung disease among coal miners remains a problem in today's mining industry.

Miners are encouraged to call attention to safety and health hazards in the workplace that pose a threat to the safety or health of workers. You may contact **MSHA** anonymously to [report any safety or health hazard](#) which is not being fixed by your mining company or operator. Contact **MSHA** at the hotline number, **1-800-746-1553**, and an **MSHA** inspector will check out the complaint as soon as possible.



SPRING THAW TRAINING WORKSHOPS

Statistics show that mining accidents tend to increase during April and May when many intermittently operated mining operations begin producing again, often with new employees who are unaware of the hazards of mining.

Each Spring, the metal and nonmetal mining industry hosts cooperative mine safety and health training workshops around the nation to increase awareness of mining hazards and improve mine safety and health. During these educational outreach events, safety professionals from mining companies, associations, and **MSHA** share information and experiences in dealing with a range of mining dangers.

These seminars are not **MSHA**-sponsored.

Spring Thaw 2019 Workshop Schedule for May

Dates	District	Field Office	Location	Place	Contact
5/1/2019 - 5/2/2019	Southeast	Macon, GA	Macon, GA	Anderson Conference Center	Dallas Jackson dallas@georgiamining.org (478)757-1211
5/9/2019	South Central	Dallas, TX	Midlothian, TX	Midlothian Conference Center	Wendell Morrow (817) 526-7774
5/10/2019	Rocky Mountain	Mesa, AZ	Scottsdale, AZ	Embassy Suites Scottsdale	Nicole Massarand nicole@azrockproducts.org (602)271-0346

Eliminate 10 Fire Hazards That May Be in Plain Sight

Smoke alarms, carbon dioxide detectors, and hazardous gas sensors need to be tested and sometimes calibrated regularly to ensure they will function properly when needed.



Fire departments across the nation respond to about 13 calls from business and industry every hour, according to NFPA estimates. That's in addition to the average of 43 calls from residential properties that come in hourly.

In total, these fires cause more than \$13 billion in property damage and kill more than 3,000 people each year. Preventing workplace fires involves identifying the specific hazards that are present in the facility, following local building and fire codes, and putting plans in place to minimize potential fire risks.

At an everyday execution level, routinely checking for some of the most common causes of workplace fires and the injuries related to fires can help to reduce the need to be one of those 13 hourly calls to local responders. Each of these items can be added to daily, weekly, or other routine safety inspections that are already taking place, and most take less than two minutes to check in an area.

Clutter

Good housekeeping is tied to a myriad of safety efforts, and fire prevention is certainly among them! Dust, shavings, clutter, and waste that is permitted to accumulate in work areas does more than just look bad. It can increase the risk of fires and hide other serious safety hazards.

Providing adequately sized recycling and waste collection containers that are conveniently located to work areas facilitates regular removal of unneeded items. Stocking the tools and supplies that employees need to keep their work areas clean and allowing time at the end of each shift for cleaning promotes housekeeping efforts, helps to minimize clutter, and keeps things in order. Hosting quarterly or bi-annual clean-out events can also help to eliminate outdated and unnecessary items from workspaces and keep clutter from piling up.

Improper Fire Extinguishers

Multi-purpose dry chemical fire extinguishers (Class A, B, C) are the most common type of fire extinguisher used in workplaces. However, they won't work on all types of fires. For example, they aren't designed for fighting fires involving metals. In other areas, a carbon dioxide extinguisher may be advantageous. Review the fire hazards in the area to choose the best type for each situation.

Fire extinguishers are useful for incipient fires, but they need to be inspected regularly to ensure that they are still pressurized and in working order. Inspections also should include making sure that the extinguishers are not blocked and that they are located in an area that gives the user a clear exit path if the contents of the extinguisher cannot extinguish a fire.

Electrical Issues

Electrical distribution and lighting equipment issues are the leading cause of fires in industrial properties, according to the NFPA. Electrical issues also frequently make OSHA's top ten list of violations.

Extension cords, daisy-chained connections, and overloaded outlets are three of the easiest electrical problems to spot, as are blocked electrical panels. Checking power cords for frays and verifying that outlets have the proper tension takes a bit longer but will help avoid more than one safety risk.

Inadequate Sprinkler Clearance

Storage space is usually a precious commodity in facilities. It can be tempting to stack things just a little bit higher or to put things on a top shelf, just for the time being. Sprinkler systems need a minimum of 18 inches of clearance to function correctly. Items that are stored too close to sprinkler heads can disrupt their flow patterns and diminish the sprinkler system's ability to adequately drench an area.

Improperly Stored Chemicals

Few facilities operate without at least a handful of different hazardous chemicals on site. Knowing the properties of each chemical is the first step in keeping employees safe. It's also the first step in storing, handling, and using it correctly to avoid reactions and other unsafe conditions.

Section seven of every hazardous chemical's safety data sheet (SDS) lists storage and handling information. This includes any incompatibilities as well as any other special precautions that need to be taken, such as storing the chemical away from ignition sources, water, or oxidizers; or keeping it within a specific temperature range.

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Open Waste Containers

Waste and recycling containers that do not have lids can encourage misuse. Often the misuse is unintentional, but it can lead to the mixing of incompatible materials or putting something hot into a container of combustible materials. Uncovered containers that contain flammable wastes can also release vapors that contribute to indoor air quality issues and can could potentially cause unsafe flammable atmospheres.

Keeping lids on containers helps to prevent unintentional mixing and fugitive vapor emissions. It can also promote recycling and segregation efforts.

Improperly Rated Appliances and Tools

Household appliances and tools that are sold for home use are usually not appropriate for use in a workplace. When these items are safety tested, they are tested under normal conditions for home usage, not for the continual or more frequent usage that usually occurs in a workplace.

Overuse and misuse of household appliances and tools can lead to premature wear, overheating, and short-circuiting. Their use in office areas and breakrooms can also overload breakers.

Defective Detectors

Smoke alarms, carbon dioxide detectors, and hazardous gas sensors need to be tested and sometimes calibrated regularly to ensure that they are still in working order and will function properly when needed. Like detectors, emergency exit lighting, alarms, and signs also should be checked periodically.

Blocked Aisles

Fire codes and OSHA regulations require emergency exit paths to remain clear at all times. Large shipments, construction, demolition, and temporary needs don't negate this requirement. If an emergency exit path needs to be blocked for any reason, alternate routes must be planned before the route is blocked; all exit path markings obscured so that people will not use that path; and the changes must be communicated to all affected employees.

Unmanaged Hot Work

Welding, cutting, brazing, and other hot work are sometimes taken for granted, especially when they aren't part of normal operations. The NFPA estimates that about 2,500 non-residential fires involve hot work each year.

Good housekeeping keeps areas free of combustible materials, and proper ventilation systems and proper chemical and waste management can keep flammable vapors in check. But there is still a need to have and use proper procedures for any and all hot work—even those jobs that will take only a few minutes.

Incorporating regular checks of each of these items into daily, weekly, and monthly inspections will help to ensure that fire safety plans and procedures are working and will continue to minimize fire risks. Each of these items also can be incorporated into toolbox talks or used as a scenario for fire and evacuation drills to keep everyone aware of the need to be vigilant in reducing the risk of workplace fires.