

**OSHA/CONSTRUCTION NEWS SUMMARY****► Marijuana Use and Its Impact on Workplace Safety and Productivity**

The number of people using marijuana in the United States is rising rapidly, and the impact of this increase is showing up at work. [read more...](#)

► Health and Safety Risks for Workers Involved in Manual Tank Gauging and Sampling at Oil and Gas Extraction Sites

The **National Institute for Occupational Safety and Health (NIOSH)** and the **Occupational Safety and Health Administration (OSHA)** have identified health and safety risks to workers who manually gauge or sample fluids on production and flowback tanks from exposure to hydrocarbon gases and vapors, exposure to oxygen-deficient atmospheres, and the potential for fires and explosions. [read more...](#)

► OSHA Updates Hazard Alert on Scissor Lifts

Scissor lifts have the potential to seriously injure or kill workers when not used properly, OSHA warns in a newly updated hazard alert. [read more...](#)

**TRANSPORTATION NEWS SUMMARY****► 'Absolute Measure' Scores to Return to Public CSA SMS with Next Update**

Contrary to reporting last month that the **Federal Motor Carrier Safety Administration's** public unveiling of a modified **CSA Safety Measurement System** represented the end of substantive updates to the public display, carriers' so-called "absolute measures" in individual **BASIC** categories will be returned to the **SMS** public view with the February update, says agency spokesman Duane Debruyne. [read more...](#)

► CVSA to FMCSA: Scale Back on Hours and Other Exemptions

CVSA says high number of FMCSA-issued exemptions overly burdensome to inspectors [read more...](#)

► ~ OMB Concludes Review of Entry-Level Driver Training Proposed Rule ~

On February 18, the White House Office of Management and Budget (OMB) completed its review of the **Federal Motor Carrier Safety Administration's** (FMCSA) entry-level driver training proposal. [read more...](#)

► Major Carrier Again Ordered to Pay Big Payout to Driver Following Refusal-to-Drive Firing

Marten Transport, one of the country's largest truckload carriers, has been ordered by a federal judge to pay a former driver more than \$100,000 in back wages and damages following the company's 2013 alleged forced resignation of the driver. [read more...](#)

► NTSB BEGINS FINALIZING REPORT ON FATAL 2014 ILLINOIS CRASH - FINDINGS INCLUDE EGREGIOUS HOS VIOLATIONS, FALSIFIED LOGS

The National Transportation Safety Board held a meeting to determine a 2014 crash's probable cause in order to finalize a report on and issue recommendations from the incident, which involved two tractor-trailers and resulted in the death of an Illinois State Toll Highway Authority truck driver. [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...](#)



► US Mine Safety and Health Administration Announces Results of Special Impact Inspections at 17 Mines in December

The **Mine Safety and Health Administration** announced that federal inspectors issued 163 citations and five orders during special impact inspections conducted at 10 coal mines and seven metal and nonmetal mines in December 2015. [read more...](#)

► Stag Canon Mine Disaster of 1923...

A snapshot in mining history

[Albuquerque Journal 100th Anniversary Commemoration of 1913 accident](#)

[Stag Cañon Mining Disasters Remembered a Century Later](#) [read more...](#)



MONTHLY SAFETY TIP NEWS SUMMARY

► NIOSH Study Looks at Prevalence of Hearing Difficulty, Tinnitus Among Workers

A new study from the National Institute for Occupational Safety and Health (NIOSH), [Hearing Difficulty and Tinnitus among U.S. Workers and Non-workers in 2007](#), examines hearing difficulty and tinnitus as two potentially debilitating physical conditions that are prevalent in the United States, especially among workers occupationally exposed to noise. [read more...](#)



Make MJS Safety your "GO TO" Resource in 2016

Check here each month for a current class schedule!

Schedule training at our Training Center in Johnstown...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 March 2016: • TRAINING CENTER – 246 BASHER DRIVE #1, JOHNSTOWN, CO 80534 •

- Safeland: Mar 4, 14, 25
- First Aid (MEDIC 1st Aid) /CPR/AED / BLOODBORNE PATHOGENS: Mar 2, 28 - 8 a.m.
- ANSI Z390 H2S Awareness Training: Mar 2, 28 - 1 p.m. and Mar 15 - 8 a.m.
- Medic First Aid Instructor Course: Mar 3, 10
- Confined Space Rescuer Training: Mar 8

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

Go to the "UPCOMING EVENTS" page at www.mjsafety.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 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 [Virtual University](#) - More courses have been added...[check it out!](#)

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

ALL COURSES ARE AVAILABLE ONLINE AT www.mjsafety.com

These affordable 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

MJS SAFETY

CARRIE – 720-203-4948

MIKE – 303-881-2409

To order First Aid & other Safety Supplies visit www.mjsafety.com or call Carrie 720-203-4948 or Mike 303-881-2409

Need Help With
 ■ ISNETworld
 ■ PEC/Premier
 ■ PICS
 ■ BROWZ
CALL US!!!

SOURCES FOR THIS ISSUE INCLUDE
 OSHA
 FMCSA
 MSHA
 ohsonline.com
 Overdrive
 CCJ
 NIOSH
 kelleronline.com
 Albuquerque Journal



OSHA / CONSTRUCTION

Marijuana Use and Its Impact on Workplace Safety and Productivity

The number of people using marijuana in the United States is rising rapidly, and the impact of this increase is showing up at work. Drug testing services report more positive tests for marijuana, both in pre-employment drug screens and drug tests conducted for other reasons.

The penalty for a positive test is often a refusal to hire or, for those who are already employees, discipline up to and including termination. An employee familiar with state laws legalizing marijuana for medical and recreational use may be surprised by such a harsh workplace penalty, but employers continue to have good reasons for enforcing a strong substance abuse policy that includes a ban on marijuana.

Safety Issues

Safety concerns are often a company's primary reason for prohibiting marijuana in the workplace, and they are a valid basis for banning the drug. Marijuana use has been linked to an increase in job accidents and injuries, and the National Institute on Drug Abuse notes that the short-term effects of marijuana include impaired body movement, difficulty with thinking and problem-solving, memory problems, and an altered sense of time.

In May 2015, an article in the *Journal of Occupational and Environmental Medicine* concluded that there is a likely statistical association between illicit drug use, including marijuana, and workplace accidents. While some studies suggest that marijuana use may be reasonably safe in some controlled environments, its association with workplace accidents and injuries raises concern.

The impact marijuana use makes on transportation safety can be especially alarming. The drug impairs attentiveness, motor coordination, and reaction time, and impacts the perception of time and speed. Studies from the National Institute on Drug Abuse have found that marijuana negatively impacts driving performance, and other researchers have found that acute use of the drug increases the risk of crashes and fatal collisions.

In addition, the National Highway Traffic Safety Administration reports that, since medical marijuana was legalized in Colorado in 2009, the percentage of marijuana-positive drivers involved in fatal motor vehicle crashes in Colorado has increased significantly.

Changing Attitudes

Issues with attendance and productivity also can arise from marijuana use, and morale may be impacted. Some of the social acceptance comes from the legalization of the drug under certain state laws. Marijuana can be used for medical purposes in 23 states, and can be used recreationally in four.

The federal government's stance also makes an impact. Although marijuana remains classified as a Schedule I drug with no legitimate medical use and a high potential for abuse, the federal Department of Justice allows state and local agencies to enforce narcotics laws that are outside federal priorities. This gives states leeway to enforce some marijuana laws as they see fit and to allow the drug to be used under state law.

Nationwide, use of the drug has increased dramatically. A survey from the National Institutes of Health found that past-year use more than doubled between 2001 and 2013, from 4.1 to 9.5 percent of the population, and addiction rates increased from 1.5 to 2.9 percent of the population. A survey by the Substance Abuse and Mental Health Services Administration showed an increase in individuals who reported marijuana use over the past month, which rose from 6.2 percent of Americans over age 12 in 2002 to 8.4 percent in 2014.

Despite the safety and productivity risks associated with marijuana use, the drug is increasingly seen as socially acceptable and its dangers may be marginalized.

In 2002, 38 percent of Americans age 12 and over saw great risk in using the drug once a month. In 2014, that number had fallen to 26.5 percent. These relaxed attitudes toward marijuana use come at a time when the drug is more potent than ever. In the 1970s, marijuana had a content of THC (*marijuana's active ingredient*) of about 1 percent. Today, THC content is nearly 13 percent, and some strains are advertised as having a THC content of around 25 percent or higher.

A Matter of Policy

The increasing public perception that marijuana use has few risks, combined with persistent safety concerns associated with the drug, underscore the importance of a strong workplace substance abuse policy that addresses marijuana use. Although marijuana has been legalized under some state laws, employers may still ban the drug at work. A person using marijuana where it is legal won't face criminal charges if the drug is used in compliance with state statutes, but its use can still have consequences in the workplace.

State laws legalizing marijuana use do not require an employer to compromise workplace safety. An employer's substance abuse policy can prohibit an employee from using or being under the influence of the marijuana, including medical marijuana, at work.

A policy making it clear that employees are prohibited from being impaired by marijuana can provide direction to employees and supervisors and can help employees understand that activity which is legal under state law may not prevent them from losing their jobs.

Compliance with State Laws

A policy should not be generic; it should indicate your company's purpose for the policy and any federal requirements that impact the way it is structured. In addition, state drug testing and medical marijuana laws need to be taken into account.

A policy might indicate that workers are not to use, possess, or be under the influence of controlled substances, including medical marijuana, while at work. However, state laws may impact how and when drug tests can be conducted, the consequences for a positive test, and the use of drug testing to indicate impairment.

So far, courts have ruled that employers may take action under their substance abuse policy if an employee tests positive for marijuana, even if the drug is being used for medical purposes away from the workplace under state law. However, some newer medical marijuana laws offer additional employee protections, and these laws have not yet been tested in court.

Because marijuana can stay in a person's system from 24 to 48 hours after casual use, and up to a month if a person is a chronic user, the question can arise of whether or not a person's job performance is still impacted by drug use if a person has not used it recently. In most states, a positive drug test can be used to indicate impairment.

However, employers in states with medical marijuana laws should be familiar with any employee protections the laws include, including discrimination, drug testing, and accommodation provisions. For example, laws in Illinois, Minnesota, and other states prohibit employers from discriminating against workers on the basis of status as a registered medical marijuana patient, and laws in Arizona, Delaware, and Minnesota indicate that a positive drug test alone does not indicate impairment.

Employers should make sure their policy reflects additional steps that may need to be taken to meet their obligation to consider employee rights, while guarding workplace safety. An employer may prohibit workers from being impaired by a controlled substance, however, and may determine that the use of medical marijuana that leads to impairment at work is not a reasonable accommodation.

While employers need to be mindful of state medical marijuana laws that can include discrimination provisions, there is no federal requirement to accommodate the use of the drug. Because marijuana remains illegal under federal law, employers do not need to consider its use as an accommodation under the federal Americans with Disabilities Act.

A Safe, Productive Workplace

Federal laws covering certain industries or contractors also can impact an employer's substance abuse policy. Employers in safety-sensitive industries, or those with federal contracts or grants, need to follow applicable federal laws that prohibit illegal drug use, with no exceptions for marijuana.

For example, certain federal contractors need to comply with the Drug-Free Workplace Act of 1988. This requires a company to have a drug-free workplace policy, specify what will happen if an employee violates that policy, educate employees about the danger of drug use, and make them aware of available counseling. In addition, the Department of Transportation is adamant that the drivers it regulates must be drug-free and cannot test positive for marijuana. It does not allow the use of medical marijuana to be a valid explanation for a positive drug test and has issued a statement noting that it does not authorize the use of Schedule I drugs, including marijuana, for any reason.

Employers not covered by these federal laws still need to provide employees with a safe workplace and do not need to compromise safety or productivity standards because of state marijuana laws. Accidents or poor job performance due to absenteeism, tardiness, or insubordination do not need to be tolerated in a person using medical marijuana if other employees are held to the same standard.

State laws and a changing cultural attitude toward marijuana may give rise to misperceptions about the drug's place at work. However, workers should be aware that marijuana laws do not diminish the need for a safe, productive workplace, and that employers can expect all employees to work to the standards required for the job.

Legal Marijuana

Marijuana is legal for medical use in:

| | | |
|----------------------|---------------|---------------|
| Alaska | Illinois | New Hampshire |
| Arizona | Maine | New Jersey |
| California | Maryland | New Mexico |
| Colorado | Massachusetts | New York |
| Connecticut | Michigan | Oregon |
| District of Columbia | Minnesota | Rhode Island |
| Delaware | Montana | Vermont |
| Hawaii | Nevada | Washington |

Marijuana is legal for recreational use in:

| | | |
|----------|----------------------|------------|
| Alaska | District of Columbia | |
| Colorado | Oregon | Washington |

Health and Safety Risks for Workers Involved in Manual Tank Gauging and Sampling at Oil and Gas Extraction Sites

The National Institute for Occupational Safety and Health (NIOSH) and the Occupational Safety and Health Administration (OSHA) have identified health and safety risks to workers who manually gauge or sample fluids on production and flowback tanks from exposure to hydrocarbon gases and vapors, exposure to oxygen-deficient atmospheres, and the potential for fires and explosions.

The NIOSH/OSHA Hazard Alert describing risks to workers involved in manual tank gauging is now available. You can view/download the document from the NIOSH website. Also see the alert as a pdf.



OSHA Updates Hazard Alert on Scissor Lifts

Scissor lifts have the potential to seriously injure or kill workers when not used properly, OSHA warns in a newly updated hazard alert.

During a one-year period, OSHA investigated scissor lift-related incidents that killed 10 people and injured more than 20. All of the incidents were preventable, the agency states, and most stemmed from employers not addressing fall protection, stabilization or positioning.

The hazard alert provides the following recommendations:

- Scissor lifts should be installed with guardrails.
- Only trained workers should be allowed to use scissor lifts, and that training should include never standing on the guardrails and keeping work within easy reach to avoid leaning away from the lift.
- Employers should ensure scissor lifts are stable by following the manufacturer's instructions and using the device outside only in good weather conditions.
- Position scissor lifts at least 10 feet away from electrical power sources and implement traffic controls to prevent workers or vehicles from approaching the lifts.

The alert initially was developed following the death of a University of Notre Dame student/employee in 2010. The untrained employee was 39 feet up in a scissor lift filming a football team practice when winds – which were gusting at more than 50 mph – blew the lift over and killed the worker. The university agreed to pay a \$77,500 fine and take steps to improve worker safety on campus.

'Absolute Measure' Scores to Return to Public CSA SMS with Next Update

Contrary to reporting last month that the **Federal Motor Carrier Safety Administration's** public unveiling of a modified **CSA Safety Measurement System** represented the end of substantive updates to the public display, carriers' so-called "absolute measures" in individual **BASIC categories** will be returned to the **SMS' public view** with the **February update**, says agency spokesman Duane Debruyne.



One carrier's "absolute measure" in the Vehicle Maintenance BASIC shown changing over time in the CSA SMS, before it was pulled from view by Congressional directive in December.

"The Agency anticipates that in March, with the February snapshot, carriers' absolute measures will be returned to the website," Debruyne said after being queried about rumors circulating around the absolute measures. The update is expected to come during the first full week of March.

The absolute measure, illustrated above for one carrier in the **Vehicle Maintenance BASIC**, represents a time- and severity-weighted calculation of a carrier's violation performance in each **BASIC**. The higher the number, per the **CSA SMS'** methodology, the worse the performance. **CSA** scores, or the percentile ranking carriers receive in each **BASIC**, are directly based on comparing the absolute measures among groups of carriers. You might think of the absolute measure as the violation-performance grade before the curve is applied.

Though the **FAST Act** highway bill required the percentiles and evaluative **BASIC** alerts to be removed from public view, Debruyne noted that, as has been reported in, the bill specifically allowed for the retention of the absolute measures in the **SMS** public display.

While such measures may ultimately be less problematic for carriers than the comparative percentile rankings, the jury's out on whether those numbers may ultimately become safety evaluation standards in and of themselves. The recent release of the **Safety Fitness Determination** notice of proposed rulemaking, to tie safety rating in part to **SMS** data, complicates matters.

Avery Vise, president of the **Trans Comply** company, sees the move as a step toward enacting the January-issued **Safety Fitness Determination** proposal. "I think **FMCSA** may go ahead and do on the **SMS** website more or less what they're proposing to do" in the proposed **SFD** rule, he says. That rule, if made final, would utilize those absolute **BASIC** measures against fixed percentile thresholds in part to determine carriers' fitness for duty.

Publication of fixed thresholds for those measures in each **BASIC**, giving viewers points on the continuum of measures against which to evaluate a carrier, might be the next step for the agency, by such logic. The **Safety Measurement System** itself is, after all, a malleable creation that **FMCSA** has modified in a variety of ways over time.

However, there is no indication as yet the agency will in fact go that route prior to the **Safety Fitness Determination** proposed rulemaking making its way through all appropriate notice, comment and evaluation periods required of significant regulations. You can evaluate the **SFD** on its merits via our prior coverage, and the proposed rulemaking remains under an initial 60-day public comment period. Those wishing to comment can do so via this [link Regulations.gov](#).

The more definite wild card in the return of absolute measures resides in the question of just how third parties will treat them.

Inclusion of the absolute measures makes plain something of a fundamental point about the **SMS**. "Some will still try to use the **SMS** to argue that someone is less safe than someone else," says Vise. That in spite of many in Congress and those throughout the industry who believe that the **SMS'** underlying data and methodology, which has not changed as yet, is simply not legitimate, whether time- and severity-weighted violation performance in each category is illustrated by a percentile or by an "absolute measure."

The **FAST Act** did more than just require the removal of public percentiles in each **BASIC** — it directed the agency to work with the **National Academies** to review and potentially revamp the program before returning to business as usual.

At the least, including the absolute measures in the public display gives private developers all they may need to make the **CSA SMS'** percentile calculations on their own, whether the agency takes the **SMS** website in new directions or not — and whether the availability of inspection/violation information wasn't already sufficient for such developers, as has been suggested by many watchers.

Congressional oversight, represented by the public-view-related and review-and-revamp requirements in the **FAST Act**, may have put a dent in the **SMS**, in other words, but it didn't knock it down entirely.

The **Transportation Intermediaries Association**, in a brief provided to **TIA** members on the subject, called the **FMCSA's** move to return the absolute measures to public view one that will "only further generate confusion in the marketplace when hiring a motor carrier and will give the trial bar another arrow in its quiver to seek judgment" against third parties for negligent selection.

The **TIA** want to note that it viewed use of **SMS** data as problematic, to say the least: "It has been, and will remain, **TIA's** position that the safety rating is the sole determination of whether or not a carrier is safe to operate or not and that all **CSA** data and scores should be removed from public view in their entirety."

CVSA to FMCSA: Scale Back on Hours and Other Exemptions

CVSA says high number of FMCSA-issued exemptions overly burdensome to inspectors

In some ways **echoing drivers' thoughts** of late on **regulatory complexity**, the **Commercial Vehicle Safety Alliance** notes the **burden** being placed on **roadside inspectors** by the **Federal Motor Carrier Safety Administration** is **becoming excessive**, specifically because of the **large number** of hours and other **exemptions** being **granted** to drivers and **carriers**.

In a letter **penned** to **FMCSA** last week, **CVSA** Executive Director Collin B. Mooney said there **were more than 20 exemption applications** or **renewal requests** granted in **2015**, including some for **vehicle equipment**, hours-of-service and **more**.

"Due to the **amount** of **exemptions** **allowed** by **FMCSA** in the **past year**, an **excessive burden** is being placed on **inspectors** to ensure **all active exemptions** are being **followed** properly," Mooney said in the letter. "**Furthermore**, this puts an **undue training burden** on **agencies** that must be **diligent** in informing **all inspectors** of the **new exemptions** and **ensuring** they **understand** and apply the **exemptions properly**."



FMCSA Spokesman Duane DeBruyne said the **letter** is **under review**.

Mooney **went on** to say that, with the **allowance** of such a **large number** of **exemptions**, "the **likelihood** of achieving a level of **safety equivalent** to, or **greater than**, the level that is **expected** by the **current regulation** is in **jeopardy**," and that there is a **possibility** that "**roadside inspectors** will no longer **accurately enforce** the **regulations**, or may stop **enforcing** regulations all **together**."

Mooney said **CVSA** doesn't **object** to the **exemptions** on an **individual basis**, but added that **exemptions** "complicate the enforcement **process**, causing **confusion** and **inconsistency** in enforcement," thus **undermining** uniformity in **enforcement**.

Mooney **suggested** that **FMCSA** removing or **limiting exemptions** would **eliminate** the confusion and **inconsistency** in enforcement, which, he said, would **benefit** both the **industry** and the **enforcement community**."

~ OMB Concludes Review of Entry-Level Driver Training Proposed Rule ~

On February 18, the White House **Office of Management and Budget (OMB)** **completed** its review of the **Federal Motor Carrier Safety Administration's (FMCSA)** entry-level **driver training proposal**.

The **OMB** review is one of the **final steps** prior to the **publication** of the **proposed regulation** in the **Federal Register**.

The **proposal** is the result of a **negotiated rulemaking process** that included **recommendations** from a **committee** comprised of a **cross-section** of motor **carrier interests** including **training organizations**, the bus and **trucking industries**, law enforcement, **labor unions**, and safety **advocates**.

The **Entry-Level Driver Training Advisory Committee (ELDTAC)** recommended to **FMCSA** that entry-level **drivers** complete a **training program** prior to **completing** the skills test for a **Class A** or **Class B** commercial **driver's license**.

ELDTAC recommended that **core curricula** for the **training program** include **theory/knowledge** and behind-the wheel **segments**, with **training** provided by a training **provider** listed on an **FMCSA-administered registry**.

Major Carrier Again Ordered to Pay Big Payout to Driver Following Refusal-to-Drive Firing

Marten Transport, one of the country's largest truckload carriers, has been ordered by a federal judge to pay a former driver more than \$100,000 in back wages and damages following the company's 2013 alleged forced resignation of the driver.

The driver claims he was "confronted and baited" by Marten to resign in July 2013 after he refused to haul two allegedly overweight loads and three other loads because, he claims, he would have been in violation of hours of service regulations.

He was awarded \$50,000 in lost pay and \$50,000 in punitive damages by Department of Labor Administrative Judge Christine Kirby, who ruled in the Feb. 22-issued order that the driver's refusal to drive was protected by federal labor law.

Marten disagrees with the ruling and plans to appeal.

The order is similar to another issued earlier by the DOL, in which Marten was ordered to pay a former driver more than \$50,000 in back wages and damages after firing him for refusing an overweight load.

Like in the first case, Marten says the firings were based on patterns of poor work and missed load assignments. Further, Marten claims the driver resigned on his own terms in 2013 because he had been reassigned to drive in a different region than he had been, which Marten says he didn't like.

Marten also claims in its court-filed response that the loads the driver refused to haul were within legal weight limits. The company also says the other loads would not have caused him to violate hours regulations.

Judge Kirby, however, says she found testimony from Marten employees to be "inconsistent and vague regarding key details" of the driver's separation with the company. Further, Kirby writes in her order, loads the driver refused to carry were overweight, according to weigh-ins done at a CAT scale less than a mile from the Marten terminal where he picked up the loads.

Therefore, his refusal was protected by federal law, Kirby says.

She also ruled the driver was legally protected when he refused loads due to on-duty time constraints, saying his dispatcher at the time agreed that he'd be over his 11-hour drive-time limit if he accepted the loads.

NTSB BEGINS FINALIZING REPORT ON FATAL 2014 ILLINOIS CRASH - FINDINGS INCLUDE EGREGIOUS HOS VIOLATIONS, FALSIFIED LOGS

The **National Transportation Safety Board** held a meeting to determine a 2014 crash's probable cause in order to finalize a report on and issue recommendations from the incident, which involved two tractor-trailers and resulted in the death of an Illinois State Toll Highway Authority truck driver.

NTSB investigators presented their findings to the full Board, which included trucker fatigue and logbook falsification, as well as "inadequacy of **Federal Motor Carrier Safety Administration** efforts to address the safety deficiencies of high-risk carriers or prioritize action to halt their operations."

Reports at the time of the crash revealed that the truck operator in the case had been awake for about 35 hours prior to the crash and had driven over 1,000 miles in that time. He was also carrying falsified logs, **FMCSA** reported at the time.

NTSB will issue its final report based on its findings, along with recommendations as to how to prevent such a crash, to regulators and the trucking industry.

The crash occurred when a DND International driver in a 2004 Freightliner and 2012 East flatbed carrying three steel coils collided with stopped vehicles in the right lane of I-88 in Naperville, Ill.

According to the **NTSB's** preliminary report, a 2000 Volvo tractor-trailer, owned by Michael's Cartage, broke down in the right lane of I-88 around 7:45 p.m. An Illinois State Toll Highway Authority truck, along with an Illinois State Police patrol car, stopped behind the disabled truck to help the driver and warn oncoming traffic of the blocked lane.

At approximately 9:20 p.m., the DND driver collided with the ISP patrol car, pushing it off into the right shoulder and ditch. It then continued forward into the ISTHA truck, before going off into the right shoulder and ditch itself.

During the collision, all three steel coils being transported by the DND truck fell off the flatbed. One of the steel coils made contact with the ISTHA truck and came to rest in the center lane of I-88. The other two steel coils came to rest in the ditch. The impact caused the ISTHA truck to collide into the back of the broken down truck, which in turn collided into the back of a heavy-duty tow truck.

A post-crash fire consumed the ISP patrol car, and the officer was severely burned but survived. The driver of the ISTHA truck was fatally injured and the right front passenger in the ISTHA truck, who was also driver of the disabled truck, received minor injuries.

Investigators of the crash found that the DND driver had slept less than 4.5 hours in the 37 hours leading up to the crash, and said in their report to the **NTSB** board that the driver admitted to falling asleep at the wheel. Investigators also found that the DND driver had falsified his logbook 36.9 percent of the time in the six months leading up to the crash.

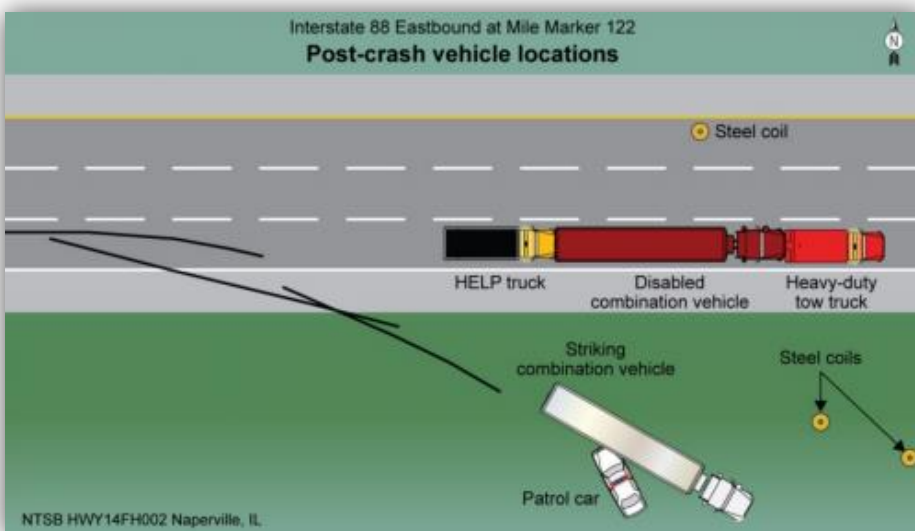
The driver of the broken down vehicle was found to have false logs at the time of the crash, as well as pre-existing vehicle defects that would have placed the vehicle out-of-service had it been inspected prior to the crash.

Both carriers were considered high-risk by the **FMCSA** at the time of the crash yet continued to operate despite **FMCSA** being aware of their noncompliance through **Safety Measurement System** data and compliance review results, **NTSB** says.

In 2013, the **NTSB** recommended the **FMCSA** be audited on its oversight capabilities of motor carriers and trucking companies, citing several major crashes in which carriers had previously been identified as at risk, yet saw no intervention by **FMCSA**.

NTSB investigators noted in their findings Tuesday that the recently-published [electronic logging device rule](#) and the proposed **Safety Fitness Determination** rulemaking would make it easier for **FMCSA** to regulate high-risk carriers.

The **NTSB** will publish a final report after changes and amendments are made to the investigators' findings, which will include recommendations and all of the findings from the crash.



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 2016 Workshop Schedule

| District | Field Office | Location | Place | Dates | Contact Name | Contact Number |
|----------------|---------------------------|---------------------|---|-------------------|------------------|----------------|
| Southeast | Lexington | Louisville, KY | Louisville Marriott East, Louisville, KY | 2/15/16 | Nicholas Rodgers | (502) 223-2379 |
| Northeast | Wyomissing/ Warrendale | Grantville, PA | Holiday Inn- Harrisburg-Hershey (604 Station Road) | 2/23/2016 | Kallie Kline | (717) 234-2603 |
| Western | San Bernardino | Ontario, California | Double Tree Hotel | 3/1/2016 | Charley Rea | (916) 661-6821 |
| Northeast | Hebron | Columbus, Ohio | Embassy Suites Columbus Airport (2886 Airport Dr.) | 3/2/2016 | Dawn Hoover | (614) 428-7954 |
| Southeast | Bartow | Florida | Polk Community College, Bartow, FL | 3/2-3/2016 | Ben Hart | (850) 528-9102 |
| Rocky Mountain | Topeka | Hutchinson, KS | Hutchinson Community College | 3/10/2016 | Dave Mullins | (620) 728-8123 |
| Rocky Mountain | Topeka | Kearney, NE | Holiday Inn Kearney | 3/15/2016 | Mark Dunn | (308) 865-8258 |
| Northeast | Manchester | Augusta, ME | Augusta Civic Center - 76 Community Drive | 3/16/2016 | Chip Laite | (207) 817-7575 |
| Western | Kent | Seattle, Washington | TBD | 3/23/2016 | Bruce Chattin | (206) 571-3395 |
| Western | Vacaville | Sacramento, CA | Red Lion Woodlake Hotel | 3/29/2016 | Charley Rea | (916) 661-6821 |
| Southeast | Columbia/ Sanford | South Carolina | Sea Trail Golf Resort and Convention Center, Sunset Beach, NC | 3/30- 4/1/2016 | William Geringer | (919) 807-2790 |
| Rocky Mountain | Green River | Buffalo, WY | Bomber Mountain Civic Center, 63 N Burritt | 3/30/2016 | Jim Stratton | (307) 686-0254 |
| Rocky Mountain | Denver | Denver, CO | Denver Federal Center, Bldg 25 Lecture Hall | 3/31/2016 | Dori Lee | (303) 231-5483 |
| Western | Albany | Redmond, OR | TBD | 4/5/2016 | | |
| Rocky Mountain | Mesa | Scottsdale, AZ | Chaparral Suites Scottsdale, 5001 N Scottsdale Rd | 5/6/2016 | Nicole Massarand | (602) 271-0346 |

US Mine Safety and Health Administration Announces Results of Special Impact Inspections at 17 Mines in December

The **Mine Safety and Health Administration** announced that federal inspectors issued 163 citations and five orders during special impact inspections conducted at 10 coal mines and seven metal and nonmetal mines in December 2015.

MSHA conducted special impact inspections at mines in Arkansas, Indiana, Kentucky, Nevada, New York, Ohio, Oklahoma, Pennsylvania, South Carolina, Virginia, West Virginia, Wisconsin and Wyoming.

Monthly impact inspections began in force in April 2010 at mines that merit increased agency attention and enforcement due to their poor compliance history or particular compliance concerns. Since then, MSHA inspectors have conducted 1,081 impact inspections and issued 15,695 citations, 1,299 orders and 57 safeguards.

See [MSHA's Monthly Impact Inspection List](#) for December 2015.

Stag Canon Mine Disaster of 1923...

A snapshot in mining history

[Albuquerque Journal 100th Anniversary Commemoration of 1913 accident](#)

Stag Cañon Mining Disasters Remembered a Century Later

The ghost town of Dawson, New Mexico may be the deadliest mining town ever. From 1913 to 1923, the Stag Cañon coal mines located there experienced three different mining disasters claim that collectively claimed the lives of nearly 400 men.

- *The second-deadliest single mining disaster in U.S. history occurred at Stag Cañon No. 2 on October 22, 1913 when an improper dynamite blast ignited coal dust claiming the lives of 263.*

- *Seven years later on April 14, 1920, five more miners were killed in another explosion at Stag Cañon No. 1 & 6.*

- *And finally, on February 8, 1923, at Stag Cañon No. 1, a mine train jumped its track taking out supporting timbers and sparking a coal dust explosion that took the lives of 120 workers.*

Many of the 120 killed were the sons of those who perished ten years earlier.

Today, all that remains of Dawson is a cemetery, only rediscovered in the early 1990s, bearing special white iron crosses for the hundreds of deceased miners.



NIOSH Study Looks at Prevalence of Hearing Difficulty, Tinnitus Among Workers



A new study from the National Institute for Occupational Safety and Health (NIOSH), [Hearing Difficulty and Tinnitus among U.S. Workers and Non-workers in 2007](#), examines hearing difficulty and tinnitus as two potentially debilitating physical conditions that are prevalent in the United States, especially among workers occupationally exposed to noise. The study was published by the American Journal of Industrial Medicine.

Hazardous noise is prevalent in the workplace, affecting approximately 22 million U.S. workers. Many cases of hearing loss among these employed adults are attributable to occupational noise exposures, and can have substantial adverse impacts for work, interpersonal relationships, and general quality of life. Tinnitus, often known as "ringing in the ears," is the perception of sound in one or both ears or in the head when there is no other source of sound in the environment, and often occurs together with hearing loss. The NIOSH study is the first to report prevalence estimates for tinnitus by U.S. industry sector and occupation, and provide these estimates side by side with prevalence estimates of hearing difficulty.

Data from the 2007 National Health Interview Survey (NHIS), a collection of detailed self-report information on hearing difficulty, tinnitus, and exposures to occupational noise were examined. Hearing conditions were compared among workers with and without occupational noise exposure, and across industries and occupations.

Researchers noted the following key findings:

- Seven percent of U.S. workers never exposed to noise on the job had hearing difficulty, 5% had tinnitus, and 2% had both conditions. However, among workers who had, at some point in their working careers, been exposed to occupational noise, the prevalence was 23%, 15%, and 9%, respectively.
- Workers in the Agriculture, Forestry, Fishing, and Hunting industry sector had a significantly higher risk of hearing difficulty, tinnitus, and their co-occurrence. Workers in the Manufacturing industry sector also had significantly higher risks for tinnitus and the co-occurrence of tinnitus and hearing difficulty.
- Workers in Life, Physical and Social Science occupations and Personal Care and Service occupations had significantly higher risks for hearing difficulty. Workers in Architecture and Engineering occupations also had significantly higher risks for tinnitus. Workers in Sales and Related occupations had significantly lower risks for hearing difficulty, tinnitus, and their co-occurrence.

Hearing difficulty, tinnitus, and their co-occurrence are prevalent in the U.S., but especially among noise-exposed workers. Workers with hearing loss often have trouble localizing sounds or hearing warning signals and have an increased risk of accidents. Hearing loss impedes communication and often leads to isolation in social situations, impediments in career progression, reduced autonomy, poor self-image, fatigue, frustration, and depression.

Tinnitus can disrupt sleep and concentration, increasing fatigue, impacting alertness, degrading performance, and potentially increasing risks for accidents on and off the job. This study identifies industries and occupations in which prevention efforts need to be focused.

Increased awareness of these problems, targeted interventions, better implementation of current best practices for hearing conservation in the workplace, improving and innovating these strategies, and stronger regulations are needed to safeguard workers' quality of life.