

**OSHA/CONSTRUCTION NEWS SUMMARY****▶ National Safety Stand-Down****To Prevent Falls in Construction****MAY 2-6, 2016**

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**▶ OSHA Penalties to Increase Significantly this Summer**

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**▶ Misclassification of Workers Costs Employer in OSHA Inspection****Connecticut contractor misclassified employees as independent contractors**

As the result of an OSHA inspection at a Connecticut construction worksite, seven different violations of the OSH Act were alleged by the agency..... [read more...](#)

**OIL & GAS NEWS SUMMARY****▶ 2016 Step Up for Safety**

In an effort to prevent injuries, illnesses, and fatalities, and to raise awareness of safety and health in the oil and gas industry, the **National STEPS Network, OSHA, and NIOSH** have organized the **2016 Step Up for Safety** campaign. [read more...](#)

**TRANSPORTATION NEWS SUMMARY****▶ 'Beyond Compliance' to be CSA's 8th BASIC?**

The **Federal Motor Carrier Safety Administration** has revealed some detail about where it proposes to go with the so-called "**Beyond Compliance**" system required by the **FAST Act** highway bill, hinting its **Compliance, Safety, Accountability** system could see another category as part of the voluntary compliance program. [read more...](#)

**▶ Drugged Driving**

Driving under the influence of any drugs is illegal and just as deadly and dangerous as driving drunk. [read more...](#)

**▶ SAFETY ADVISORY****Immediate Re-Inspection and Retesting of Certain Cargo Tank Motor Vehicles Required**

The **Federal Motor Carrier Safety Administration** is issuing this safety advisory to provide notice to owners and operators of certain cargo tanks that have been **improperly inspected** and **tested**, and must be re-inspected and retested before being used in **Hazardous Materials** specification tank service. [read more...](#)

**▶ Minor Changes to DOT Physical Form Took Effect April 20**

Medical examiners performing physical exams on truck drivers will be required to use the revised versions of the [Medical Examination Report Form](#) and the [Medical Examiner's Certificate Form](#) beginning April 20. [read more...](#)

**▶ Tire Safety to be Emphasis of Annual 72-Hour Inspection Blitz in June**

The **Commercial Vehicle Safety Alliance** has announced its annual **International Roadcheck**, which will take place **June 7-9**, will have a special emphasis on tire safety this year. [read more...](#)



▶ **Off the Clock: An Hours of Service Alternative**

Even proponents of electronic logging devices have to admit: The gadgets do nothing in terms of the underlying hours of service absurdity in which truckers have to work when they should be resting and to rest when they know they could be driving safely. [read more...](#)

▶ **Senate Bill Clears Up 34-Hour Restart Confusion**

*...proposed bill could add new hours limits*

The U.S. Senate's Appropriations Committee April 21 passed 30-0 a bill that corrects a legislative mess-up from December that put the 34-hour restart in jeopardy. [read more...](#)

▶ **Camera Systems Taking A Lead In Data Harvest**

Road-facing and driver-facing camera systems such as those of the SmartDrive and DriveCam companies have enjoyed big tailwinds in recent years because of their powerful event capture and review capabilities. [read more...](#)



▶ **Trucking Groups Fire Back at FMCSA Over Carrier Rating Rule, Say it Circumvents Congressional Intent**

An ad-hoc coalition of trucking organizations issued a letter Monday, April 11, to Acting FMCSA Administrator Scott Darling disputing comments made by FMCSA's Joe DeLorenzo on a media call regarding the agency's January-proposed Safety Fitness Determination rule. [read more...](#)

▶ **“Distracted Driving”!** [read more...](#)

MJS Safety **urges** you to remind family, friends, and co-workers to **STOP!**

▶ THE CONSEQUENCES CAN BE DEVASTATING ◀

▶ **‘A BROKEN SYSTEM’:**

*A small fleet owner's perspective on CSA, SFD reliance on roadside inspections, violations*

*Our company's in great shape, but this system is a broken system. –*

*Bob DeLullo of 16-truck, St. Marys, Pa.-based Dellulo Trucking [read more...](#)*

**MSHA NEWS SUMMARY**

▶ **Improving Safety and Health**

**Mines are safest in 2015:** Last year represented the safest in mining history, based on preliminary data released by the Mine Safety and Health Administration. [read more...](#)

▶ **Safety Alert: Prevent Stockpile Accidents**

**During calendar year 2015, seven dozers were involved in stockpile accidents.**



**BEST PRACTICES TO PREVENT STOCKPILE ACCIDENTS** [read more...](#)

**MONTHLY SAFETY TIP NEWS SUMMARY**

▶ **Bureau of Labor Statistics: 2014 Workforce Deaths Highest in 7 Years**

The Bureau of Labor Statistics, on April 21, 2016, finalized its data on worker fatalities for 2014. The U.S. workplace fatality rate increased for the first time since 2010, and the total number of on-the-job deaths was the highest since 2008. [read more...](#)

**MJS Safety can provide all the tools necessary to make your workplace safe in 2016 and beyond!**

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Check here each month for a current class schedule!

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- ~OSHA 10 Hour General Industry
- ~OSHA 30 Hour General Industry
- ~NUCA Confined Space
- ~Hydrogen Sulfide [H<sub>2</sub>S] - Awareness
- ~Respirator: Medical Evaluation & Fit Testing
- ~Hazard Communication – GHS Training
- ~Teens & Trucks Safety
- ~1st Aid/CPR Course- Medic 1<sup>st</sup> 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 1<sup>st</sup> 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 May 2016: • TRAINING CENTER – 246 BASHER DRIVE #1, JOHNSTOWN, CO 80534 •

- Safeland: May 6, 16, 27
- First Aid (MEDIC 1<sup>st</sup> Aid) /CPR/AED / BLOODBORNE PATHOGENS: May 12 - 8 a.m.
- ANSI Z390 H2S Awareness Training: May 12 - 1 p.m.
- PEC 3 Day Core Compliance Class: day 3 - May 4.....days 1 & 2 were Apr 28, 29

► NEED ANY OF THESE CLASSES IN SPANISH? CONTACT [carriejordan@mjsafety.com](mailto:carriejordan@mjsafety.com) TO SCHEDULE TODAY ◀

Go to [www.mjssafety.com](http://www.mjssafety.com) - "UPCOMING EVENTS" for up-to-date class listings  
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#### — 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!

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 jjkeller.com  
 nsc.org  
 US DOL.gov



## National Safety Stand-Down

### To Prevent Falls in Construction

**MAY 2-6, 2016**

The purpose of the **National Fall Prevention Stand-Down** is to raise **awareness** of preventing **fall hazards** in **construction**. Fatalities caused by **falls** from **elevation** continue to be a **leading** cause of **death** for **construction workers**, accounting for **345** of the **899** **construction fatalities** recorded in **2014**. Those deaths were preventable. Fall prevention **safety standards** were among the **top 10** most frequently cited **OSHA standards**, during fiscal year **2014**.

#### 2016 Stand-Down Goals

Last year's **Stand-Down** was a tremendous success, reaching more than 2.5 million workers. This year, **OSHA's** goal is to reach 5 million workers. If we meet this goal, we will have touched more than half of the construction workers in the country.

#### Who Can Participate?

Anyone who wants to prevent falls in the workplace can participate in the **Stand-Down**. In past years, participants included commercial construction companies of all sizes, residential construction contractors, sub- and independent contractors, highway construction companies, general industry employers, the U.S. Military, other government participants, unions, employer's trade associations, institutes, worker interest organizations, and safety equipment manufacturers.

#### Partners

**OSHA** is partnering with key groups to assist with this effort, including the **National Institute for Occupational Safety and Health (NIOSH)**, the **National Occupational Research Agenda (NORA)**, **OSHA** approved **State Plans**, **State consultation programs**, the **Center for Construction Research and Training (CPWR)**, the **American Society of Safety Engineers (ASSE)**, the **National Safety Council**, the **National Construction Safety Executives (NCSE)**, the **U.S. Air Force**, and the **OSHA Training Institute (OTI) Education Centers**.

#### What is a Safety Stand-Down?

A **Safety Stand-Down** is a voluntary event for employers to talk directly to employees about safety. This **Stand-Down** focuses on **"Fall Hazards"** and reinforcing the importance of **"Fall Prevention"**.

#### How to Conduct a Safety Stand-Down and FAQ's

Companies can conduct a **Safety Stand-Down** by taking a break to have a toolbox talk or another safety activity such as conducting safety equipment inspections, developing rescue plans, or discussing job specific hazards. Managers are encouraged to plan a **Stand-Down** that works best for their workplace anytime during the May 2-6, 2016.

See [Suggestions to Prepare for a Successful "Stand-Down"](#) and [Highlights from the Past Stand-Downs](#). **OSHA** also hosts an [Events](#) page to help employers and workers find events in your area. These events are free and open to the public.

## OSHA / CONSTRUCTION

#### Certificate of Participation

Employers will be able to provide feedback about their **Stand-Down** and download a **Certificate of Participation** signed by Secretary of Labor Thomas E. Perez following the **Stand-Down**. The **Certificate Page** will be active on May 2, 2016.

#### Share Your Story With Us

If you want to share information with **OSHA** on your **Safety Stand-Down**, **"Fall Prevention Programs"** or suggestions on how we can improve future initiatives like this, please send your email to [oshastanddown@dol.gov](mailto:oshastanddown@dol.gov). Also share your **Stand-Down** story on social media, with the hashtag: **#StandDown4Safety**.

If you plan to host a free event that is open to the public, see **OSHA's Events** page for more information, and to contact your **Regional Stand-Down Coordinator**.

## OSHA Penalties to Increase Significantly this Summer

Congress has been advocating for the **Protecting America's Workers Act** for over a decade.

On **November 2**, portions of the **Act** made their way into the **Bipartisan Budget Act of 2015**, which was signed into law by **President Obama**. The budget directs federal agencies to adjust their civil monetary penalties to account for inflation.

Under the **Federal Civil Penalties Inflation Adjustment Act of 1990**, **OSHA** had been exempted from a requirement to increase penalties along with inflation. However, the new budget removed that exemption.

Since **OSHA's** penalties haven't changed since the early 1990s, the initial adjustment could amount to a near 80 percent increase in maximum allowable fines. (After the initial adjustment, agencies are directed to make annual adjustments to keep up with inflation.)

While the new maximums don't take effect until **Aug. 1, 2016**, some companies could already be in line to feel the effects of these changes. **OSHA** has up to **six months following an inspection** to issue fines. So companies that are being investigated today could see fines under the new guidelines if they arrive after July.

An important note - the totals are increasing from a maximum of \$70,000 per instance for willful or repeat violations to a maximum of \$124,709. For serious violations, the increase changes from \$7,000 per instance to \$12,471.

Although fines can take a huge bite out of a company's bottom line, they should never be at the forefront for safety violation concerns. A good safety program aims to eliminate hazards altogether.

The **OSH Act** gives workers the right to safe and healthful working conditions. It is the duty of employers to provide workplaces that are free of known dangers that could harm their employees. **OSHA** strives to make sure that every worker in the nation goes home unharmed at the end of the workday, the most important right of all.

# Misclassification of Workers Costs Employer in OSHA Inspection

## *Connecticut contractor misclassified employees as independent contractors*

As the result of an OSHA inspection at a Connecticut construction worksite, seven different violations of the OSH Act were alleged by the agency, and in the recent ruling, Secretary of Labor v. David Dzenutis d/b/a Royal Construction Company (February 2016), Administrative Law Judge Keith Bell upheld every citation and imposed \$20,240 in civil penalties.

The company had misclassified as “subcontractors” four individuals whom OSHA claimed were actual employees. The court agreed, and found that OSHA had jurisdiction over the company and that the citations were properly issued because company “employees” had exposure to the violative conditions.

The court found that the company violated the following standards:

- 29 CFR 1926.59 for not having a written hazard communication program
- 29 CFR 1926.150 for not having a fire extinguisher
- 29 CFR 1926.502 for failing to use fall protection
- 29 CFR 1926.1051 for failing to provide a ladder at a point of access
- 29 CFR 1926.1053(b)(1) for failing to properly extend a ladder
- 29 CFR 1926.1053(b)(22) for improperly carrying a load on a ladder
- 29 CFR 1926.1053(b)(21) repeat violation for failing to grasp a ladder with at least one hand

Were these overly picky citations? The judge didn’t think so and affirmed them all as serious and/or repeat.

The reason? The company’s primary defense was that it was not an “employer” within the meaning of the OSH Act because the workers on site were “subcontractors.” Under the Act and prevailing case law, only “employers” may be cited for an OSHA violation, but having a single employee satisfies the requirement.

## EMPLOYEES OR SUBCONTRACTORS

The OSHA inspector testified that he interviewed each of the four workers and each identified himself as an employee of Royal Construction, said that they were paid hourly and took direction from Mr. Dzenutis. Royal Construction also provided all the materials and equipment needed for the job. None of the workers carried workers’ compensation insurance, nor were they individually licensed contractors.

During the inspection, Mr. Dzenutis told the inspector that two of the men were employees and two others were subcontractors. But at trial, the defense theory was that all four were actually contractors. He testified that they were under their own supervision, had their own tools and made their own hours. But other testimony showed that Royal did provide the materials, tools, trailer, and equipment needed for the project, and it determined when the individuals would work, and for how long. Some had worked for Mr. Dzenutis on previous projects, and the work they performed was part of the regular business of Royal Construction (as opposed to a specialty trade that would normally be subcontracted out).

In finding that the workers met the statutory criteria for being classified as “employees” of Royal Construction, the judge said: “To assess whether an employer/employee relationship exists, the Commission looks to the hiring party’s right to control the manner and means by which the work is accomplished. This is commonly known as the Darden test, after the US Supreme Court decision in Nationwide Mutual Insurance Company v. Darden (1992).

Judge Bell noted that the relevant factors in conducting an inquiry into the employer/employee relationship include: the skill required; the source of the instrumentalities and tools; the location of the work; the duration of the relationship between the parties; whether the hiring party has the right to assign additional projects to the hired party; the extent of the hired party’s discretion over when and how long to work; the method of payment; the hired party’s role in hiring and paying assistants; whether the work is part of the regular business of the hiring party; whether the hiring party is in business; the provision of employee benefits; and the tax treatment of the hired party.

## TOTALITY OF THE EVIDENCE

The totality of the evidence convinced the judge that Royal Construction had employees at the worksite: all four of the men at issue were deemed “employees” under the Darden factors. The judge also noted that, because Mr. Dzenutis did not deny that he himself was working on the project, this alone would have subjected Royal Construction to the OSH Act. But while there was conflicting testimony on the employee status issue, the ALJ held that the inspector’s testimony about how the workers themselves described the relationship was more convincing, and entitled to more weight than the company representative’s statement. In addition to conferring OSHA jurisdiction on the employer, the number of employees is also a criterion used to determine civil penalty amounts.

## THE LESSON LEARNED

OSHA is currently very sensitive to the issue of misclassification of workers (especially day laborers in construction and landscaping industries) because often workers who are viewed as non-employees are provided with lesser protections than permanent employees. They may get inadequate training or supervision, and may not be provided with PPE required by OSHA. They are often injured at rates significantly higher than bona fide employees.

Consequences can be far-reaching. While it may be tempting to use short-term workers without benefit of putting them on the official payroll, it is against the law to misclassify workers. Be sure that you never permit any workers to be “second-class citizens” when it comes to safety on your project. ■

## 2016 Step Up for Safety

In an effort to prevent injuries, illnesses, and fatalities, and to raise awareness of safety and health in the oil and gas industry, the National STEPS Network, [OSHA](#), and NIOSH have organized the 2016 Step Up for Safety campaign (Feb – May 31). Our goal is to assist companies in providing their employees with valuable safety and health information.

### What is the Step Up for Safety?

The 2016 Step Up for Safety is a voluntary event for employers to talk directly to employees about safety. The purpose of the Step Up is to provide information to companies that can be used at their sites for training and awareness. We have gathered information from many sources that have been developed to assist employers in providing this training.

### Who Can Participate?

Anyone who wants to prevent workplace injuries, illnesses, and fatalities can participate in the 2016 Step Up for Safety.

### How is a Step Up for Safety Conducted?

Companies can conduct a Step Up for Safety by taking a break to have a toolbox talk or by completing another safety activity such as a hazard hunt or inspecting safety equipment. Numerous topics are being provided in an effort to reach as many employees and employers involved in the varied oil and gas industry.

Once you have provided the training we ask that you return to this website and record the number of employees you reached, the amount of time you spent training (number of employees x the amount of time), or the number of hazards you identified and corrected. This information is requested only so we can quantify the impact of the 2016 Step Up for Safety.

### Partners

The National STEPS Network is partnering with key groups on this effort, including the Occupational Safety and Health Administration (OSHA), the National Institute for Occupational Safety and Health (NIOSH), the Association of Energy Service Companies (AESC), Texas Oil and Gas Association, (TXOGA), American Petroleum Institute (API), PEC Safety, The University of Texas at Arlington, and Red Rocks Community College.

### Steps to Follow:

#### View PowerPoint

- 1: Visit the [2016 Step Up For Safety website](#) and review the training information available and determine the most appropriate topics or activities (site or equipment inspections) for your employees.
- 2: Conduct training for your employees (or conduct site or equipment inspection or a hazard hunt). Please keep track of the number of employees you train and how much time you spend training. If you conduct site inspections please keep track of the number of hazards you identify and the number of hazards you correct.
- 3: Return to the [2016 Step Up for Safety website](#) and record your information and provide feedback by May 31, 2016.

## 'Beyond Compliance' to be CSA's 8th BASIC?

The **Federal Motor Carrier Safety Administration** has revealed some detail about where it proposes to go with the so-called **"Beyond Compliance"** system required by the FAST Act highway bill, hinting its **Compliance, Safety, Accountability** system could see another category as part of the **voluntary compliance** program.

The **FAST Act** required the agency to take one of **two routes** toward establishing the system to **provide credit** to motor carriers going above and beyond **baseline compliance** – either **credit** those efforts in the existing **Safety Measurement System** of the **CSA** program or create a **new category** to stand alongside that system's **seven current BASIC** categories of measurement.

The recent **Federal Register** notice noted that the agency is **leaning toward** adding an **eighth BASIC**. You can think of it as the **regulatory-compliance equivalent** of the **SmartWay Transport Partnership** with the **U.S. Environmental Protection Agency**, in which carriers **voluntarily invest** in **verified fuel-efficient technology** in exchange for **being named** a **SmartWay carrier**, a tool then for carriers to use in **promoting themselves** with **prospective customers**.

The new **voluntary SMS** category would require carriers to apply to be a part of it, **FMCSA Associate Administrator** for Enforcement **Bill Quade** told attendees of the **"Beyond Compliance"** listening session at the **Commercial Vehicle Safety Alliance Workshop** event in Chicago. "The new **BASIC** will be **two-tiered**," he said. "One tier would be **'deployed'**" and would be **displayed** as such in the public **SMS**, showing that a carrier has put a **safety-enhancing technology** or program into use in its **trucks and/or operations**.

The other tier would display as **"improved,"** showing a **technology, program or practice** that's **past deployment stage** to **verifiable improvement** in safe operation.

Essentially, as Quade put it, "you've **deployed** this, and we'll give you **credit** for it." After **six months**, if the carrier has seen **improvement** in **safety metrics** with **targets** set by the carrier in their application, the carrier would be **credited with improved status**.

Quade **detailed the entirety** of the **FMCSA's** proposed **structure** for the program in brief in his **opening remarks** at the **listening session**:

Irwin Shires of **Panther Expedited** set the **tone** for much of the **commentary** that followed in response to the **details** of the **FMCSA's notice**. What carriers have asked for with the **"Beyond Compliance"** system, Shires believes, is **not a separate BASIC**, but a way to **"assist carriers in improving their scores"**. To create a **separate BASIC** seems to me **totally counterproductive**.

He charged **FMCSA** with something **drivers** who recall the **outcome** of the **hours of service** listening sessions that preceded the **2011 rewrite** of the **rules** may well find **familiar**. Shires noted he'd **given comment** at each of the previous **"Beyond Compliance"** listening sessions, adding that **FMCSA** had put the **cart** before the **horse** in releasing a **proposal** at this **stage** of the process and that **public forums** should not just **"be listening-and-then-ignoring sessions"**.

Joe Rajkovic, representing the **Western States Trucking Association**, echoed Shires' call for a **focus on improvements** within the existing **CSA SMS** with any **"Beyond Compliance"** program, calling **FMCSA's** proposal as written **"a kick in the teeth"** from his **association's standpoint**. Particularly, he said, **eligibility requirements** for participants with **associated costs** for participating, seem to, in some ways, **exclude** those who might otherwise have **benefited**. "We believe this program can be **beneficial** to **small carriers** especially," said Rajkovic.

But **FMCSA's** proposal, as Quade noted, specifies eligibility to participate extends only to carriers who do not show a **CSA** score in any **BASIC** category of measurement that is above the agency's **intervention threshold** in that **BASIC**.



"By telling a carrier that if you're already in an alert in a **BASIC**, **'you can't participate,'** you've taken away any **incentive** from most **small businesses** participating," Rajkovic said.

**Smart Safety Services'** Daniel Solana, based in New Jersey and working mostly for **smaller carriers** and **owner-operators**, had similar thoughts. "I was **extremely happy** when this came out," he said, citing what he saw as the **program's potential**, at least, to be an **avenue** toward **publicly visible safety improvement** for his clients. "I got a **good feeling** that this would be **implementing something** that would be for the **people that need help**."

The **good feeling** has not lasted following **FMCSA's** proposal, Solana argued, saying he felt, **essentially**, that anyone should be allowed to participate, including **Conditional-rated carriers**, which **FMCSA** has proposed to **lock out** of the system. "Use of the **Conditional rating** could be **problematic**," said Rob Abbott of the **American Trucking Associations**, noting the **well-documented** struggle so many such carriers have faced getting **even consideration** of an **upgrade** to **Satisfactory** as agency **division resources** are spread thin.

"On a **higher level**," Abbott added, "would it be **wrong** to **recognize** a fleet with a **Conditional rating** that had made an **investment** in **improving safety**?"

Quade pointed out that, as proposed, **FMCSA** would work toward a **no-cost contract** with a **third-party service provider** to ultimately **administer** the program. The contract would allow the provider to collect **compensation** directly from **motor carriers** to offset its own investments. The **Federal Register** notice cited an **average \$750** a year in costs for a carrier participating in the program. Quade clarified that the figure was somewhat **misleading**, given the **smallest carriers** would likely spend **much less**, the largest **much more**.

**Swift Transportation's** Victor Malchesky noted he might have a **tough time** justifying **"paying** to be a part of something I'm already **paying millions of dollars** to put in," **referencing investment** specifically in **technology** on **Swift trucks**. "We're already **paying**, so to ask us to **pay again** to fund the program seems a **little unfair**."

"Having a carrier pay to be **recognized** for doing something **exceptional** seems a **little bit silly** here," noted **Owner-Operator Independent Drivers Association** Director of **Regulatory Affairs** Scott Grenerth. "You can have a carrier saying, 'I'm doing **everything right**'" with **no accidents**, no advanced **safety technology** to speak of. "How is it **appropriate** to have the carrier spend the money to get **recognized** for something?"

Grenerth, in the **final analysis**, also warned that the **Eighth BASIC** approach will ultimately become a **standard** that **disadvantages businesses** without the **money** or time to **invest** in participating in the program. "If you have a new **BASIC** for this, that will become the **standard**" for brokers and **shippers** in carrier selection.

Jack Van Steenburg, **FMCSA's** Chief Safety Officer, noted he'd heard the **concerns** in the **morning portion** of the session **loud and clear**. "The **Federal Register notice** is open through **June 20**," Steenburg said, **emphasizing** the proposal was just that, a **proposal** that the agency intends to **tweak** based on **feedback**. "After that we'll **start making** some decisions."

*Owner-operators can read the notice and share any ideas on the **"Beyond Compliance"** initiative via this [link](#).*

# Drugged Driving

Driving under the influence of any drugs is illegal and just as deadly and dangerous as driving drunk. If you drive impaired by drugs – even if they're legal drugs like prescriptions and marijuana – you can be arrested for DUI.

Through *The Heat Is On* campaign, CDOT pairs impaired driving and DUI prevention education with heightened enforcement.

In response to the recent legalization of recreational marijuana, CDOT launched a new education campaign on marijuana impaired driving. [Click here](#) for campaign materials.



## Drugged Driving Statistics in Colorado

In 2012, the Colorado Department of Human Services collected 23,519 drug and alcohol evaluations. Of the total evaluations, 1,045, or nearly 5 percent involved marijuana.

Also in 2013, there were 103 fatalities involving a drugged driver, and 36 of the 288 drivers tested for drugs had cannabis only in their system. [Click here](#) for more drugged driving statistics.

## Law Enforcement Can Spot the Signs

Colorado law enforcement officers are trained in the detection of impairment of alcohol and drugs, and many are specially trained Drug Recognition Experts (DRE). These officers have the ability to detect physical signs of drug impairment. DREs are viewed as one of the most effective law enforcement tools in efforts to reduce drugged driving.

DREs also use chemical tests for drugs. Colorado's Express Consent Law requires any driver to consent to a chemical test if a police officer has reasonable grounds to believe the person is driving under the influence or their ability to operate a motor vehicle is impaired because of alcohol, drugs or both. Any driver who refuses to take a chemical test will immediately lose their driver's license and will be classified as a persistent drunk driver. Consequences of refusal include revocation of a drivers' license for one year, mandatory ignition interlock for two years and alcohol education and therapy classes as specified by law.

## Legalization of Marijuana and Impaired Driving

Marijuana affects reaction time, short-term memory, hand-eye coordination, concentration and perception of time and distance. Getting high and getting behind the wheel of a car will get you arrested for a DUI – this law hasn't changed with the legalization of marijuana in January 2014.

Similar to alcohol, there is an established impairment level in Colorado of five nanograms of active tetrahydrocannabinol (THC)—the active psychoactive component of marijuana—per milliliter of whole blood.

CDOT has been working alongside the marijuana industry and other state and local agencies for the past six months to develop policies and education efforts to inform marijuana users about the dangers of driving while impaired. [Click here](#) for frequently asked questions regarding the new law and driving.

# Marijuana and Driving

**Q: How does marijuana affect my ability to drive?**

**A:** You cannot judge your own level of impairment. Any amount of marijuana consumption puts you at risk of driving impaired.

**Q: Is there a legal limit for marijuana impairment while operating a vehicle?**

**A:** Colorado law specifies that drivers with five nanograms of active tetrahydrocannabinol (THC) in their whole blood can be prosecuted for driving under the influence (DUI). However, no matter the level of THC, law enforcement officers base arrests on observed impairment.

**Q: What if I use marijuana medicinally?**

**A:** If a substance has impaired your ability to operate a motor vehicle it is illegal for you to be driving, even if that substance is prescribed or legally acquired.

**Q: Are there additional penalties for marijuana-impaired driving if there are children in the vehicle?**

**A:** Additional charges for impaired drivers include child abuse if children are present in the vehicle.

**Q: Is it legal to have marijuana or marijuana paraphernalia in the passenger cabin of the vehicle?**

**A:** Colorado's open container law makes it illegal to have marijuana in the passenger area of a vehicle if it is in an open container, container with a broken seal, or if there is evidence marijuana has been consumed. It is also illegal to consume marijuana on any public roadway.

**Q: How can law enforcement determine if I am impaired by the use of marijuana?**

**A:** Colorado Law Enforcement Officers are trained in the detection of impairment caused by drugs. Many Colorado Law Enforcement Officer have received advanced training in Advanced Roadside Impaired Driving Enforcement (ARIDE). Across the state of Colorado law enforcement agencies have specially trained Drug Recognition Experts (DRE) on staff that can detect impairment from a variety of substances.

**Q: What if I refuse to take a blood test to detect THC?**

**A:** Colorado revokes driving privileges for any individual who fails to cooperate with the chemical testing process requested by an officer during the investigation of an alcohol or drug-related DUI arrest. Any driver who refuses to take a blood test will immediately be considered a high-risk driver. Consequences include: mandatory ignition interlock for two years, and level two alcohol education and therapy classes as specified by law. These penalties are administrative, and are applied regardless of a criminal conviction.

**Q: How do marijuana-impaired violations differ between the Colorado Division of Motor Vehicles and Colorado courts?**

**A:** Like any other substance, marijuana-impaired infractions result in administrative and criminal sanctions. [Click here](#) for more information.

**Q: Are there stricter penalties for those individuals who are arrested driving under the influence of a combination of marijuana and alcohol or other drugs?**

**A:** The penalties are the same regardless of the substance, or combination of substances. However, when combining substances, there is a greater degree of impairment. This significantly increases the chances of crashes, penalties and charges.

# SAFETY ADVISORY

## Immediate Re-Inspection and Retesting of Certain Cargo Tank Motor Vehicles Required

The **Federal Motor Carrier Safety Administration** is issuing this safety advisory to provide notice to owners and operators of certain cargo tanks that have been improperly inspected and tested, and must be re-inspected and retested before being used in Hazardous Materials specification tank service.

### The tanks in question were tested by:

- H&W Tank Testing, CT#8083, Ohatchee, Alabama, and
- Christopher Humphries, CT#13131, Jacksonville, Alabama.

Cargo tanks that have been inspected and/or tested by either company from April 2011 through March 2016, must be re-inspected and/or retested in accordance with 49 CFR § 180.407 immediately by a cargo tank facility registered with **FMCSA**.



**It is a VIOLATION of the Federal Hazardous Materials Regulations (HMR) to use these cargo tank motor vehicles for transportation of hazardous materials before they have been PROPERLY RE-INSPECTED and RETESTED by an FMCSA-REGISTERED CARGO TANK FACILITY.**

### The Following Actions Must Be Taken Immediately:

You must provide **FMCSA** with documentation that the required inspections and testing have been performed for all of the affected cargo tank motor vehicles;

- ▶ send to the attention of Paul Bomgardner, Chief, Hazardous Materials Division
- ▶ by email at: [fmcsa.cargotank@dot.gov](mailto:fmcsa.cargotank@dot.gov),
- ▶ or by fax at [202-366-3621](tel:202-366-3621),

prior to operating any cargo tank motor vehicle that was tested and/or inspected by Registered Inspectors under either of the above-listed cargo tank registration numbers.

### The Documentation Must Consist Of:

- A pressure test by a cargo tank facility that is currently registered with USDOT/FMCSA and has a qualified and trained Registered Inspector.
- Documentation of the bench test, or if required, replacement of the pressure relief devices;
- An external visual inspection and an internal visual inspection in conjunction with the pressure test.
- For those cargo tank motor vehicles that do not have a manway, the Registered Inspector must document that the pressure relief devices and internal valves were removed and inspected. It is recommended, but not required, that the inspector perform a visual inspection of the tank in the area where the pressure relief devices and internal valves were removed for the accumulation of rust or other materials that could diminish their performance. This documentation must include the findings and recommendations of the Registered Inspector;
- A thickness test of all corroded or abraded areas on the cargo tank motor vehicle or a statement by the Registered Inspector that no corroded or abraded areas were identified;
- For all cargo tanks made of quenched and tempered steel (QT) a wet florescent magnetic particle exam immediately prior to and in conjunction with the pressure test that complies with Section V of the ASME Code and CGA Technical Bulletin TB-2 by a trained, qualified Registered Inspector; and
- The training certificate of the person conducting the wet florescent magnetic particle exam, dated to within 3 years of the date the exam is conducted.

For more information or questions concerning this **Safety Advisory**, please contact Paul Bomgardner, Chief, Hazardous Materials Division, at [202-493-0027](tel:202-493-0027), or by email at [paul.bomgardner@dot.gov](mailto:paul.bomgardner@dot.gov)

## Minor Changes to DOT Physical Form Took Effect April 20

Medical examiners performing physical exams on truck drivers will be required to use the revised versions of the [Medical Examination Report Form](#) and the [Medical Examiner's Certificate Form](#) beginning April 20.

The **Federal Motor Carrier Safety Administration** published a final rule in April 2015 designed to facilitate the electronic transmission of MEC information from **FMCSA's** National Registry to the State Driver's License Agencies, which also required the use of revised medical forms.

The rule went into effect in December, but **FMCSA** granted a 120-day grace period for implementation of the new forms.

## Tire Safety to be Emphasis of Annual 72-Hour Inspection Blitz in June



The Commercial Vehicle Safety Alliance has announced its annual International [Roadcheck](#), which will take place June 7-9, will have a special emphasis on tire safety this year.



Inspectors will be measuring tire tread depth, checking tire pressure, checking to make sure no items are lodged between dual tires and examining the overall condition of the tires to ensure no deep cuts or bulges exist in the sidewalls.

Checking tires is part of a normal inspection, but **CVSA** is highlighting tire safety during the blitz as a reminder to drivers and carriers, the organization said. Nearly 75,000 inspections take place each year during the inspection spree, done by a joint effort of the **Commercial Vehicle Safety Alliance**, **Federal Motor Carrier Safety Administration** and others. During the inspection blitz, inspectors will primarily conduct full 37-step Level I inspections, which is the most thorough inspection.

## Off the Clock: An Hours of Service Alternative

Even proponents of electronic logging devices have to admit: The gadgets do nothing in terms of the underlying hours of service absurdity in which truckers have to work when they should be resting and to rest when they know they could be driving safely. It's an unsafe system, demeaning to professional drivers.

It doesn't take much acquaintance with trucking to realize how diverse the jobs are in terms of applications, schedules, unpredictable delays, dock times, etc. Nor does it take much science to see that adults' sleeping habits vary greatly by age and from individual to individual, and that no set requirement of rest guarantees anything about mitigating fatigue.

Hence the impossible task of coming up with an hours of service recipe that works for the entire industry. Granted, some forced rest is better than no forced rest, given the history of unscrupulous dispatchers and overly ambitious drivers. But that's not good enough.

Though fatigue measurement is in relative infancy compared to other areas of health science, it could be the next big thing for trucking. The popular road-facing cameras not only capture wrecks and careless driving, but they also show evidence of a trucker's erratic driving that can indicate fatigue. Certainly driver-facing cameras also can produce real-time fatigue warnings.

The same data derived from equipment that measures length and quality of sleep for drivers with sleep apnea could be a key part of a fatigue measurement system. Not too far out in the future are wearable sensors and sensors placed in seats and steering wheels that can pick up vital signs that help reveal fatigue levels.

Put aside, for the moment, all the negative aspects – and there are plenty – of having your body monitored every second you're on duty, of having your health data transmitted to regulators and fleet personnel. Instead, assume that biometrics and other fatigue-related data gathering become standardized.

That could form the foundation for a totally revised approach to hours of service. You'd drive when you're rested and rest when you're tired. Clock-based restrictions would be minimal, or at least much more flexible.

Of course, there are many problems to work out before such a system could be considered. And legal challenges based on privacy rights might well curtail such developments.

Whatever happens for better or for worse, it's worth noting that a system based in reality – the driver's true fitness for duty, not some rigid, almost arbitrary system cooked up by regulators – could be a big improvement over a one-size-fits-all system that actually fits very few.

## Senate Bill Clears Up 34-Hour Restart Confusion

*...proposed bill could add new hours limits*

The U.S. Senate's Appropriations Committee April 21 passed 30-0 a bill that corrects a legislative mess-up from December that put the 34-hour restart in jeopardy.

It makes clear that the restart remains available for use by truck operators should a pending study by the Department of Transportation find that pre-July 2013 restart rules are more effective for truckers' fatigue levels than those that took effect July 1, 2013.

Should that be the case, the bill would also kick in a few changes to hours of service limits. Specifically, it would set a 73-hour cap on the amount of time truckers can spend on duty in any consecutive seven-day period after utilizing a 34-hour restart. According to the proposed bill's text, "the 7-day measurement period moves forward 1 day at midnight each day."

Current 60 hours in 7 days and 70 hours in 8 days provisions would remain intact.

If, however, the DOT study finds that the July 1, 2013-enacted restart regs are the safer rules, then hours of service regulations from July 2013 would go back into effect. In that case, truckers could use a 34-hour restart to reset their weekly clock, but the restart would be required to contain two 1 a.m. to 5 a.m. periods and would be limited to use once per week.

In this scenario, the new 73-hour cap would not go into effect.

Before the Senate's legislation, the 2017 FY Transportation and Housing and Urban Development funding bill can become law, it must still be passed by the full Senate, where amendments could change it. The same provisions must also be taken up by the U.S. House and passed there.

The changes to truckers' hours of service rules were prompted by the need for Congressional action to fix a technical problem enacted by last year's omnibus funding act. The provisions in that law pertaining to the 34-hour restart could kill the 34-hour restart entirely, per some interpretations.

The Senate's action with the T-HUD bill shows Congress may intend to do more than clarify its December mistake. Lawmakers and lobbyists appear to be using the need for Congressional action as a means to circumvent the Federal Motor Carrier Safety Administration and the formal executive rulemaking process to enact hours changes.

The Senate and House have not passed a lone Transportation and Housing and Urban Development (THUD) funding bill in years, settling for so-called omnibus funding bills late in the year. If that's the case this year, the provisions would need to be included in such a bill and passed by both chambers of Congress.

Other trucking-related initiatives in the bill include a deadline for DOT to finish work on a rule to mandate the use of speed limiters on heavy trucks and assign more federal funds to the deployment of autonomous vehicles.

# Camera Systems Taking A Lead In Data Harvest

Road-facing and driver-facing camera systems such as those of the SmartDrive and DriveCam companies have enjoyed big tailwinds in recent years because of their powerful event capture and review capabilities.

With such strong momentum and expanding uses for cameras, the technology could well follow the same path as that of electronic logging devices: widespread early adoption by large fleets and an eventual federal mandate industrywide.

Dual camera systems “will at some point be required,” says Don Osterberg, formerly a senior vice president of safety with Schneider National and now a member of SmartDrive’s board of advisers. He believes that the “granularity and clarity that video monitoring” offers to fleets, accident investigators and drivers could yield great safety benefits.



Private industry will outpace regulation by a long stretch, Osterberg says, and company drivers can expect multiple-camera systems to be common before any potential mandate might take effect. He believes camera technologies will ultimately become a factory-installed truck option.

These predictions could be accurate, given the strong customer growth both DriveCam and SmartDrive have experienced. DriveCam this year received a cash infusion through the \$500 million buyout of its parent company, Lytx, by private equity firm GTCR. Lytx spokeswoman Gretchen Griswold reports 2015 subscriptions were up 80 percent over 2014, with half a million drivers now in DriveCam-equipped vehicles.

Fleets are drawn not just to the crash evidence value of video in court, but also to applications such as crash review, driver coaching and performance incentives.

Drivers can generate massive amounts of video, mostly triggered by actions such as swerves or hard braking, for review by SmartDrive and DriveCam personnel. They cull notable events for the fleets, who often coach drivers around the issues raised.

More ambitious use of video, primarily for real-time fatigue management, is on the horizon. That’s “absolutely the direction of our technology,” says DriveCam Senior Product Manager Todd Birzer. “We’ll continue to evolve to pursue that aggressively.”

By reading lane striping, a system can trigger a driver alarm. Add a driver-facing camera, able to monitor length and frequency of blinks and nods and other movements, and the fatigue application is even greater. Research and development at DriveCam, illustrated in part by its recent ActiveVision product that combines its basic dual-camera service with lane-departure and collision warnings, is coalescing sensor and communications technology around the so-called “missing link” inside the cab....the driver.

The ActiveVision system is looking at technology that would capture events beyond those now gathered by the obvious triggers. It’s using what Birzer calls “machine vision technology” to detect “lane markings and vehicles around the truck – we can give in-cab warnings if a driver is weaving inside a lane,” for instance. “From patterns of movements, we can then decide when to take a video.”

This focus and related research “has really allowed us to take drowsy and distracted driving detection to the next level.”

For example, “If the driver’s head is nodding, if they’re doing something with their hands and arms,” Birzer says, the camera’s underlying software will recognize signs of fatigue or distraction. Alarms can be sounded in-cab and, if so configured, in the back office.

As autonomous trucks become common, fatigue detection technology could be key in ensuring safety, Birzer says. This could mean allowing the truck to seize control when a driver becomes too fatigued or, conversely, ensuring the driver is ready to assume control, for example, to exit an interstate highway.

As autonomous driver-assist systems advance, says SmartDrive President Jason Palmer, not only will the company be measuring driver performance, but also “the performance of that assist system.”

Video insights will be key to understanding “how drivers react to those automated systems,” says SmartDrive Chief Executive Officer Steve Mitgang. Fleets will be better equipped to focus on the problem areas of human-machine interactions.

## Video Evidence Could Influence Bonuses

A potential upside for camera use is that its event review information can be incorporated with vehicle data to make for more dynamic performance-pay options.

While fleets can fairly easily track average miles per gallon to chart a driver’s fuel-mileage performance, “they don’t know where the best place for improvement is,” says SmartDrive CEO Steve Mitgang. A particular driver might do better to have a goal to “improve in-city driving” rather than to focus on areas where he already excels, such as reducing idling. “This will help them set up a performance-pay target to help them get there.”

Mitgang points to the company’s new SmartIQ big-data platform that integrates truck systems’ data with video evidence of driving events to produce useful intelligence.

“Video in combination with telematics and other data is the game changer,” he says.

## Trucking Groups Fire Back at FMCSA Over Carrier Rating Rule, Say it Circumvents Congressional Intent

An ad-hoc coalition of trucking organizations issued a letter Monday, April 11, to Acting FMCSA Administrator Scott Darling disputing comments made by FMCSA's Joe DeLorenzo on a media call regarding the agency's January-proposed Safety Fitness Determination rule.

The key point of contention between FMCSA and the carrier groups is whether the proposed rule's issuance violates the December-enacted FAST Act highway bill.

DeLorenzo, the agency's head of compliance and enforcement, spoke in a brief conference call with trucking industry press about the Safety Fitness proposal, offering a general overview of the rule and what it will mean for the industry, along with a defense against claims by trucking industry groups who say the rule violates provisions of the FAST Act. DeLorenzo said the agency is operating within the limits of the FAST Act provisions.

The carrier groups, however, have again argued otherwise, saying in their April 11-issued letter to Darling that the agency's proposed SFD rule relies heavily on data specifically restricted from use by the FAST Act. "FMCSA continues to argue that the Notice of Proposed Rulemaking fully complies with the FAST Act because the SFDs are not based on relative percentiles but rather 'absolute' failure standards calculated using relative percentiles. Putting aside the obvious sophistry of this claim, Section 5223(b) – the very provision FMCSA clings to as supposedly supporting its decision to move forward with the NPRM – does not provide the cover that the agency claims," the groups write.

The ad-hoc coalition of carrier groups includes the Western States Trucking Association, the National Association of Small Trucking Companies, the Alliance for Safe, Efficient and Competitive Truck Transportation and several other organizations.

They and other groups have been vocal about their disapproval of the publication of the proposed SFD rule, saying Congress has dictated that FMCSA implement an overhaul of the Compliance, Safety, Accountability program before using the relative SMS scores to make safety fitness determinations.

Trucking industry groups have sent a series of letters to Congress in recent months expressing their concerns, and they've caught the eye of at least some in Congress...a group of 33 members of the U.S. House who sent the concerns to House leadership. The lawmakers also said they may clarify their FAST Act intentions with follow-up legislation.

The April 11 letter to Darling also disputes statistics presented by FMCSA in its April 7 media call. The agency's claims that it can assess about 75,000 carriers a month under the new system is "simply not true," the groups write. "The actual figure is more than 60 percent lower" than that, the coalition argues, saying only about 30,500 unique carriers a month will clear the inspection and violation thresholds required to produce a safety fitness determination.

"Our concerns with the NPRM go far beyond these points and include serious problems with due process, Administrative Procedure Act compliance, the regulatory analysis and, of course, the heavy reliance on flawed SMS data and methodology," the letter states. "If FMCSA is to move forward with this process, we hope that the agency will consider a more circumspect and thoughtful approach."

The public comment period on the rule stays open until May 23.

**It was reported on the Today show this past week that more than 50% of traffic accidents are caused by**

**“Distracted Driving”!**

**MJS Safety urges you to remind family, friends, and co-workers to STOP!**

**▶ THE CONSEQUENCES CAN BE DEVASTATING ◀**

## **‘A BROKEN SYSTEM’:**

*A small fleet owner's perspective on CSA, SFD reliance on roadside inspections, violations*

*Our company's in great shape, but this system is a broken system. –*

*Bob DeLullo of 16-truck, St. Marys, Pa.-based Dellulo Trucking*

What was DeLullo talking about? The bedrock system on which the Federal Motor Carrier Safety Administration's CSA program, and perhaps more importantly the planned Safety Fitness Determination system, is based. That'd be the one that sends you over the scales on a daily basis or to the roadside for a log check or wider inspection.

DeLullo presents a case in point: His company is a bulk wood-products hauler, mostly hauling its own product with its affiliate Woodbed company. It's not uncommon for DeLullo drivers to carry two-gallon jugs for situations they might encounter in the course of a workday: One filled with salt, the other with oil.

An inspection in New York resulted in a "hazmat violation," DeLullo says. The jugs are re-used treatment totes. "So when I buy the jugs, there's oil in them," he adds, but once they're re-used they're "not an approved container," the lynchpin of that particular violation.

In a more recent incident, an officer DeLullo describes as a "local city cop" in Warren, Pa., that had been trained to conduct CVSA North American Standard inspections, stopped a DeLullo driver en route to the company's shop (a few miles away) to repair a tire. "My driver, just the day before, was in a long DOT check, so he wasn't 100 percent professional with the cop," DeLullo says. "He was pissed that he had been through it the day before."

Ultimately, the officer detained the truck for a few hours by issuing two out-of-service violations — one for a flat tire, and another for improper securement. Of what, you ask? Improper securement of the oil jugs bungee'd next to the frame rail behind the cab.

In conversation with DeLullo later, he says, "The cop told, 'he wasn't nice,'" referring to the driver. "And I said, 'Well this is how this works, I guess — this isn't about safety. This is about just how nice you can be.'"

What it all boils down to, DeLullo says, is as increasing employment of "gotcha-type methods of enforcement," an attitude of "me against you. I say in any great relationship, it can't be a 'me against you' proposition. As it is, this is the DOT and the federal government against me in this business. I'm 50 years old, and I don't see why I want to continue to do this."

The central point of the problem, as DeLullo sees it, is that the increasingly adversarial relationship, the gotcha attitudes and methods he's seeing, is producing the data that is then being used at the highest levels of the CSA ranking/scoring program to produce the scores that carriers are being judged on. His thoughts on it all are a definite variation on the old "garbage in, garbage out" phrase to describe systems doomed by the component parts on which they are based. (That phrase is one we've all heard before when it comes to the CSA program, of course, going back to its early days.)

"Once you get that," he says, once "you know what that means on the road" during inspections, it's easy to see it all as a "downward spiral."

Despite a high percentile in the Crash Indicator BASIC of the CSA Safety Measurement System, "our company's in great shape, but this system is a broken system," he adds.

While Congress has taken action on the CSA Safety Measurement System and its categorical percentiles, pulling them from public view pending a review/revamp of the program, FMCSA nonetheless continues to move forward with its long-planned Safety Fitness Determination safety rating system that would lean heavily on roadside inspection/violation data to make the ratings. As reiterated in reporting by James Jaillet just today, there is a push by an ad hoc coalition, including associations representing small carriers around the nation, to halt the SFD rulemaking process by arguing the release of the rulemaking proposal violated Congressional intent in the FAST Act highway bill. As I've written before, the coalition argues the proposal should have been held until the CSA SMS was reviewed/revamped, as required by law, given how much the SFD relies on the CSA SMS' architecture. Read more about it at this link.

If you judge the industry by looking at the CSA SMS, DeLullo says, "the safest carrier on the road is the new carrier, the guy with no history. I've been doing this for 30 years and I look worse at a glance than a brand-new carrier."

In the final analysis, he says, "In order to conquer things you have to have a two-way working relationship," he says, one that's just not there at this point between the industry and law enforcement. "The end result — when you go to the store 10 years down the road, everything's going to cost more."

## Improving Safety and Health

**Mines are safest in 2015:** Last year represented the safest in mining history, based on preliminary data released by the Mine Safety and Health Administration. In 2015, 28 miners died in mining accidents, down from 45 in 2014. The fatal injury rate, expressed as reported injuries per 200,000 hours worked, was the lowest in mining history for all mining at 0.0096, down from 0.0144 in 2014. “The progress we made in 2015 is good news for miners and the mining industry,” said Assistant Secretary of Labor for Mine Safety and Health Joseph Main. “It is the result of intensive efforts by MSHA and its stakeholders that have led to mine site compliance improvements, a reduction of chronic violators, historic low levels of respirable coal dust and silica, and a record low number of deaths.”



## Safety Alert: Prevent Stockpile Accidents

During calendar year 2015, seven dozers were involved in stockpile accidents. Most of the accidents involved the dozer falling into a hidden cavity created when material “bridged” over a feeder and material beneath the bridge was withdrawn. Bridging can occur when equipment compacts the material at the surface of the pile or if the surface material freezes.

Stockpiles that have sat idle for a period of time can also become more prone to bridging due to consolidation of the pile material. None of the accidents involved injuries to miners; however, each had the potential to be serious.



## BEST PRACTICES TO PREVENT STOCKPILE ACCIDENTS

- ▶ *Implement a system to detect cavities and warn all potentially affected parties.*
- ▶ *Use safe procedures to eliminate a cavity.*
- ▶ *Never operate equipment directly over a feeder.*
- ▶ *Markers should be placed directly overhead of a feeder to indicate its location.*
- ▶ *Consider the installation of a proximity detection system to alert equipment operators if they are approaching a predetermined distance from the feeder.*
- ▶ *Install lights or signal systems that identify which feeders are operating.*
- ▶ *Always operate equipment facing the feeder.*
- ▶ *Special high strength safety glass should be installed in dozer cabs used on stockpiles.*
- ▶ *Equip stockpile dozers with a transmitter that sounds an alarm and stops feeders and belts when the signal is lost.*
- ▶ *Always securely store SCSR and flashlights in the dozer cabs.*
- ▶ *Provide specialized training to miners on alarm response, equipment needs and recovery of a disabled dozer. This can save time and potentially life.*

For more information on stockpile safety, please visit [MSHA's Surge Pile Accident Prevention](#) page.

# Bureau of Labor Statistics: 2014 Workforce Deaths Highest in 7 Years

The **Bureau of Labor Statistics**, on April 21, 2016, finalized its data on **worker fatalities** for 2014. The **U.S. workplace fatality rate increased** for the first time since 2010, and the **total number of on-the-job deaths** was the highest since 2008.

According to the **BLS 2014 Census of Fatal Occupational Injuries**, 4,821 people – more than 13 per day – died while doing their jobs.

[Here's](#) what we've learned about these workers:

- 4,454 were men and 367 were women
- Most were between 45 and 64 years old
- Among industries most affected were construction (899 deaths), transportation and warehousing (766), agriculture (584), government (435), professional and business services (425) and manufacturing (349)

Most of them – 1,984 – died in transportation incidents, followed by:

- Slips, trips and falls: 818
- Injuries by people or animals: 765 (409 of these were homicides)
- Contact with objects and equipment: 715
- Exposure to harmful substances or environments: 390
- Other events or exposures: 149

~ EACH ONE OF THESE DEATHS WAS 100% PREVENTABLE ~

These could be **Red Flags** for you....

Top 10 most frequently cited standards by Federal OSHA in fiscal year 2015 (October 1, 2014, through September 30, 2015):

1. [Fall protection, construction](#) (29 CFR 1926.501)
2. [Hazard communication standard, general industry](#) (29 CFR 1910.1200)
3. [Scaffolding, general requirements, construction](#) (29 CFR 1926.451)
4. [Respiratory protection, general industry](#) (29 CFR 1910.134)
5. [Control of hazardous energy \(lockout/tagout\), general industry](#) (29 CFR 1910.147)
6. [Powered industrial trucks, general industry](#) (29 CFR 1910.178)
7. [Ladders, construction](#) (29 CFR 1926.1053)
8. [Electrical, wiring methods, components and equipment, general industry](#) (29 CFR 1910.305)
9. [Machinery and Machine Guarding, general requirements](#) (29 CFR 1910.212)
10. [Electrical systems design, general requirements, general industry](#) (29 CFR 1910.303)

**MJS Safety** can provide all the tools necessary  
to make your workplace safe in 2016 and beyond!

*The numbers above are disturbing!  
Being pro-active with safety will help you avoid being one of them!*

CONTACT US TODAY...  
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