



## ▶ MJS SAFETY TRAINING ANNOUNCEMENT

**MJS SAFETY LLC** is proud to announce that we are now available to perform Operator Qualification [OQ] Performance Evaluations under the MEA EnergyU system as well as Veriforce. [call to schedule](#) [read more...](#)

▶ **Schedule of classes Dec 2017:** • TRAINING CENTER - 1760 BROAD ST, UNIT H, MILLIKEN, CO 80543 • [read more...](#)

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### ▶ Competent Person Requirements for New OSHA Crystalline Silica Rule

Despite legal action and efforts to delay enforcement for the construction industry, enforcement of OSHA's new Crystalline Silica Standard is now in effect. Contractors should now be making a good faith effort to comply or face significant fines. [read more...](#)

### ▶ OSHA Issues Final Rule Setting Compliance Date for Crane Operator Certification Requirements

The Occupational Safety and Health Administration (OSHA) issued a [final rule](#) setting November 10, 2018, as the date for employers in the construction industries to comply with a requirement for crane operator certification. [read more...](#)

### ▶ **ALERT:**

**U.S. Department of Labor's OSHA Extends Compliance Date for Electronically Submitting Injury, Illness Reports to December 15, 2017** [read more...](#)

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With its new, controversial recordkeeping rule for injuries and illnesses, OSHA is capitalizing on the power of transparency. [read more...](#)

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Roughly **one** out of every **seven** trucks and buses inspected during a one-day special brake safety law-enforcement effort in September was placed **out of service** for brake-related violations, according to the group that coordinated the inspections. [read more...](#)

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### ▶ DOT to Add Four Opioids for Transportation Worker Drug Testing

The U.S. Department of Transportation plans on Jan. 1 to begin testing truck drivers and other "safety-sensitive" transportation employees for the semi-synthetic opioids hydrocodone, hydromorphone, oxycodone and oxycodone... [read more...](#)



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*Mandate for Devices Takes Effect Dec. 18*

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**MSHA NEWS SUMMARY**

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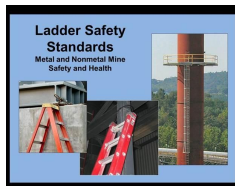


► **MNM Serious Accident Alert Facility - Cement**

**Facility – Cement** – On August 14, 2017, a miner suffered burns to his body when hot, fine material was flushed out of a kiln dust collector hopper entry port.



**Best Practices** [read more...](#)



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# MJS SAFETY TRAINING ANNOUNCEMENT

**MJS SAFETY LLC** is proud to announce the addition of ENERGY worldnet, Inc. [EWN] to our OQ Services.

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

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

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

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

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

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

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

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- ~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
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- ~Respiratory Protection Training

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

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  - First Aid/CPR/AED / BLOODBORNE PATHOGENS: December 7, 21; 8 - noon  
(We offer both MEDIC FIRST AID & AMERICAN HEART ASSOCIATION)
  - TEEX H2S Operator Training – Awareness (ANSI Z390 Course): December 7, 21; 12:30 – 4:30
- [ For any last minute schedule updates, go to [www.mjssafety.com](http://www.mjssafety.com) ]

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## OSHA / CONSTRUCTION

# Competent Person Requirements for New OSHA Crystalline Silica Rule

Despite legal action and efforts to delay enforcement for the construction industry, enforcement of OSHA's new Crystalline Silica Standard is now in effect. Contractors should now be making a good faith effort to comply or face significant fines.

OSHA's rule for Respirable Crystalline Silica for Construction became effective September 23, 2017, and contractors must now make a good-faith effort to comply with the requirements. Many contractors have asked about the requirement to designate a competent person (CP) to implement the written Silica Exposure Control Plan and to make frequent and regular inspections of jobsites where silica exposure could exist and the materials and equipment used to control silica hazards. You may want to print [Table 1](#) from the standard, as it will be referenced several times in this article.

OSHA has issued a guidance document that clearly states what employers and competent persons must do. The information presented in this article is based on a careful review of the construction competent person discussion in the preamble of the new standard and a NUCA (National Utility Contractors Association) representative's opinion of what OSHA will expect contractors to do. These may change as OSHA issues interpretations and answers to FAQ's.

### What the Regulation Says

In paragraph (b) of the [Crystalline Silica Standard](#) for Construction, OSHA defines competent person as an individual who is capable of identifying existing and foreseeable respirable crystalline silica hazards in the workplace and who has authorization to stop work and take prompt corrective measures to eliminate or minimize them. In paragraph (g)(4) of the [standard](#) for construction, the employer is required to designate a competent person to make frequent and regular inspections of jobsites including the materials and equipment used to control silica hazards, and to implement the written exposure control plan.

Before a CP can perform his or her assigned duties, a written exposure control plan must be prepared. The plans in most companies will be prepared by management and the safety department with the participation of the CP. These plans will generally be a written document that is tweaked for different jobsites based on [Table 1](#) of the standard.

On one jobsite a company may be using a handheld power saw to cut concrete pipe which, when wet cut methods are used, does not require a respirator for up to 4 hours of exposure. For exposure greater than 4 hours, an APF 10 respirator is required. If respirators must be used, your company should already have implemented a respiratory protection plan in compliance with [1910.134](#). If a walk behind saw is equipped with integrated water delivery systems when used outdoors, respirators are not required. Your company's exposure plan should spell all this out. The CP is responsible for ensuring the plan is implemented properly, the tools — including integrated water systems — are used and working properly, and that workers are wearing respirators and PPE when required.

Training for CPs is similar to the training for workers, which must focus on the general requirements that apply to potential silica exposures and control methods of compliance found on most utility construction jobsites. This training, plus knowledge of the exposure control plan and the control methods to eliminate silica hazards (based on [Table 1](#)) should be all that is required to designate an employee as a CP. However, if the CP will be required to perform exposure assessments, additional training is required.

The rule does not specify particular training requirements for competent persons because OSHA concluded that it is not practical to specify the elements and level of training. But OSHA did not mandate a one-size-fits all set of training requirements to establish competency in every conceivable construction setting.

Therefore, the training requirement is performance oriented, which means the employer, with the assistance of the CP(s), must ensure workers are protected from exposure to silica dust through proper implementation of the company's Silica Exposure Control Plans. Some CPs will require more in-depth training depending on the nature of the work. For example, if the employer is unable to control potential silica hazards using [Table 1](#), the standard requires employers to perform silica exposure assessments. This will require the CP to be trained in any new methods that will be used to protect the workers. OSHA does not foresee many silica control situations not covered by [Table 1](#). However, many contractors are concerned about the practicality of [Table 1](#) and integrated wet down systems.

### Current CP May Be Adequate

In the regulations preamble, OSHA observes that a person who is already a competent person in trenching and excavation will likely already have the knowledge necessary to fully and properly implement controls on the tools they use and will recognize when they are not functioning properly. Provided the designated CP is knowledgeable and understands the silica information and training required by [paragraph \(i\)](#) – Information and Training.

NUCA sent out training information and materials to all members that employers can use for training their workers and the employees who they will designate as their competent persons for silica. However, if the CP does not know how to use and maintain the equipment integrated water or dust collection systems, the CP may require additional training. It is also recommended that all CPs be provided with a copy of the standard and the [guidance document](#) and read it.

**In summary, a competent person for silica must:**

- Be designated by the employer
- Be capable of identifying existing and foreseeable silica hazards
- Be authorized to stop work and take prompt corrective action to eliminate or minimize the silica hazards
- Understand the requirements set forth in the silica standard
- Make frequent and regular inspections of the silica operations, materials, and equipment
- Implement the Silica Exposure Control Plan

In addition to complying with the new standard and having an Exposure Control Plan, OSHA has directed its Compliance Safety and Health Officers (CSHOs) to review the employer's Respiration Protection and Hazard Communication Programs as part of the inspection.

If a CSHO visits your jobsite, the inspector will try to determine if your CP is competent and ask questions to determine if the CP has adequate knowledge to perform CP duties. The inspector may try to determine if the CP understands the engineering controls (e.g., wet cut or vacuum control methods) being used at the jobsite and how to ensure they are working properly. It's extremely likely, if the CSHO approaches your jobsite and sees a cloud of dust, your hazard control plan is not working and your CP will probably not be considered to be competent, and you should expect citations. The employer is responsible for selecting and designating a CP and for ensuring that the CP is adequately trained and knowledgeable to perform the CP duties required under the silica standard.

## OSHA Issues Final Rule Setting Compliance Date for Crane Operator Certification Requirements

The Occupational Safety and Health Administration (OSHA) issued a [final rule](#) setting November 10, 2018, as the date for employers in the construction industries to comply with a requirement for crane operator certification. The final rule became effective November 9, 2017.

OSHA issued a [final cranes and derricks rule](#) in August 2010. After stakeholders expressed concerns regarding the rule's certification requirements, OSHA published a separate [final rule](#) in September 2014, extending by three years the crane operator certification and competency requirements. This one-year extension provides additional time for OSHA to complete a rulemaking to address stakeholder concerns related to the [Cranes and Derricks in Construction standard](#).

OSHA's Advisory Committee on Construction Safety and Health (ACCSH) recommended delaying enforcement of the certification requirement and extending the employer assessment responsibilities for the same period.

See [more information](#) on Cranes and Derricks in Construction.

## ALERT:

### U.S. Department of Labor's OSHA Extends Compliance Date for Electronically Submitting Injury, Illness Reports to December 15, 2017

To allow affected employers additional time to become familiar with a new electronic reporting system launched on August 1, 2017, the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) has extended the date by which employers must electronically report injury and illness data through the [Injury Tracking Application \(ITA\)](#) to **December 15, 2017**.

OSHA's final rule to **Improve Tracking of Workplace Injuries and Illnesses** sets **December 15, 2017** as the date for compliance (a two-week extension from the December 1, 2017, compliance date in the proposed rule). The rule requires certain employers to electronically submit injury and illness information they are already required to keep under existing OSHA regulations.

Unless an employer is under federal jurisdiction, the following OSHA-approved State Plans have not yet adopted the requirement to submit injury and illness reports electronically: California, Maryland, Minnesota, South Carolina, Utah, Washington, and Wyoming. Establishments in these states are not currently required to submit their summary data through the ITA. Similarly, state and local government establishments in Illinois, Maine, New Jersey, and New York are not currently required to submit their data through the ITA.

OSHA is currently reviewing the other provisions of its final rule to Improve Tracking of Workplace Injuries and Illnesses, and intends to publish a notice of proposed rulemaking to reconsider, revise, or remove portions of that rule in 2018.

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

# OSHA's New Recordkeeping Rule: Top 3 Challenges Coming Down the Line

With its new, controversial recordkeeping rule for injuries and illnesses, **OSHA** is capitalizing on the power of transparency. It's correct to say that public scrutiny is sometimes the kick that companies need in order to improve, but will the benefits be worth the challenges?

In May 2016, **OSHA** published its new recordkeeping rule, officially named "[Improve Tracking of Workplace Injuries and Illnesses](#)." Among many revisions, the rule dictates that employers must submit their work-related injury and illness records to a new **OSHA** website. This data is then published into the public domain.

## Why the OSHA Recordkeeping Changes?

At the time, then-Assistant Secretary of Labor David Michaels explained that the new rule would capitalize on the fact that employers do not want to be perceived negatively or as poorly managed: "Our new rule will nudge employers to prevent work injuries to show investors, job seekers, customers, competitors, organized labor and the public that they operate safe and well-managed facilities," he said.

It's true that reputation is pivotal for any organization; we don't need to look far for confirmation. BP saw its market value drop by 52 percent following the Deepwater Horizon disaster of 2010, which cost the company \$105 billion and prompted its first loss in 18 years (*\$17 billion loss in 2010, Q2*). Sales at BP gas station in the United States. fell up to 40 percent due to backlash against the company, which is still recovering seven years later.

**OSHA's** heart is in the right place. It's correct to say that public scrutiny is sometimes the kick that companies need to improve, but will the benefits be worth the challenges?

## Early Setbacks – A Sign of Things to Come?

**OSHA's** new e-recordkeeping rule went into effect on Jan. 1. However, roll-out has not been smooth sailing for the administration. The submission deadline originally was set as July 1, but in May, the requirement was suspended indefinitely. The

deadline then was moved to Dec. 1, with the new **OSHA** portal set to launch on Aug. 1.

Complying with the new rule will not be an easy ride, either. A lack of guidance for employers has cast uncertainty over how EHS professionals can accurately comply with such changes. [Details of the regulation](#) are available on the **OSHA** website. Here are some of the main challenges we've identified:

### 1. Over 450,000 extra companies are now required to report incidents annually.

**OSHA's** new recordkeeping rule quadruples the number of employers now required to submit injury and illness data directly to **OSHA**. Under the previous recordkeeping rule, approximately 35,000 large employers were required to submit injury data and incident reports each year. That number has jumped to 130,000 employers. The number has increased even more significantly for smaller employers: 150,000 smaller employers required to report versus approximately 500,000 under the new rule.

Previously, 301 Incident Reports only were required upon request during an **OSHA** inspection. Now large businesses need to proactively submit an expected 1.3 million 301 Incident Reports to **OSHA** each year.

That's a lot of new responsibility. The challenge here lies with the many organizations that never before had to submit this kind of data. If not doing so already, such companies will now need to maintain a robust incident management solution to make sure they have the correct data to pass on. This change potentially could require significant investment.

## 2. Lack of context can dilute the significance of the data.

In order to protect anonymity, data published by **OSHA** will not include contextual information. However, without the context for each incident, a fair and balanced assessment of an employer's work environment may be impeded. This is the most disputed problem with the rule.

For example, **OSHA** issued an interpretation letter in May 2016 stating that an injury that occurs while an employee is intoxicated still must be recorded on the log. This is because it does not meet any of the reporting exceptions provided by the new recordkeeping standard.

Further still, if two companies have two injuries each, it won't be made known that one company has 200 workers and the other has two workers, skewing the figures.

Concerns exist that this ambiguity may influence incomplete or false conclusions about the employer, or indeed about the solution. In the case of most large organizations, incident management processes will be in place to thoroughly investigate occurrences, which should always be followed up with corrective and preventative actions. The new e-recordkeeping rule may encourage smaller organizations to be as rigorous in their investigation and prevention efforts, but lack of context will remain a necessary part of the "bleached" **OSHA** log.

## 3. Maintaining injury and illness data integrity when submitting reports to OSHA.

The [data submission process](#) involves four steps: (1) Creating an establishment; (2) Adding 300A summary data; (3) Submitting data to **OSHA**; and (4) Reviewing the confirmation email. The secure website offers three options for data submission. One option will enable users to manually enter data into a web form. Another option will give users the ability to upload a CSV file to process single or multiple establishments at the same time. A third option will allow users of automated recordkeeping systems to transmit data electronically via an application programming interface (API).

If opting for the manual entry, as is perhaps seen as the easiest option for many small organizations, personnel will be challenged in ensuring fields are mapped appropriately and that

no accuracy is lost in translation. Manual data entry will take up a large chunk of EHS professionals' time.

The best way to submit data to **OSHA** would be through an API that connects automated environmental, health and safety (EHS) incident management systems with the new **OSHA** portal. However, this raises challenges for EHS software vendors and EHS managers alike. Vendors should be considering their abilities to integrate with the new portal, as this would be a significant advantage, and managers must get familiar with a new process.

## 4. Managing the uptake in data.

A challenge for **OSHA** employees, rather than EHS managers, will be the sheer volume of data that will need processed. Despite this, no new staff onboarding efforts have been announced, with Michaels saying in 2016 that the administration had enough staff to work through the data.

We already have seen the submission deadline pushed back multiple times and employers have received little guidance on how to comply, suggesting there may be a lack of resources in the relatively small-budget administration to wholeheartedly support this regulation.

## 5. A mixed reaction from the EHS community

The new **OSHA** recordkeeping rule is controversial for three reasons: the investment required by small companies that currently do not have the resources to easily comply; the false conclusions that may be drawn from incomplete context; and the room for error in manually copying data into the new system.

The EHS community response has been mixed. The National Council for Occupational Safety and Health (*National COSH*) hailed the rule as an "important step towards transparency" and **OSHA** is confident it will facilitate better benchmarking.



However, critics include past-president of the American Society of Safety Engineers (ASSE) Michael Belcher, who claimed it is a “step backward for safety professionals,” as it focuses on lagging indicators.

Compliance and improvement are two different things. For the latter, efficient incident management processes that make use of leading indicators will be pivotal. Results remain to be seen, but in the meantime, organizations must face up to the challenges of complying with the new **OSHA** recordkeeping rule.

As Supreme Court Justice Louis D. Brandeis once said about transparency: “**Sunshine is the best disinfectant.**”

Another memorable year fades...

Take time this holiday season to enjoy family and friends!



## Commission Reverses Judge’s Decision in Late Filing Case

**Picture this:** On June 30, 2016, your company receives a two-item citation following an **OSHA** inspection of your worksite in Texas. Your receptionist gives the citation to your safety analyst before the start of the July 4<sup>th</sup> holiday weekend and she puts the citation on her desk. But when everyone returns to work on the following Tuesday, they find severe water damage – including “water dripping onto the equipment and paperwork” on the safety analyst’s desk.

In all of the hubbub surrounding cleaning up the damage, which included removing mold and repairing sheet rock, the citation was forgotten. But once the safety analyst was able to move back into her office, she discovered it among other papers that had been set aside during the confusion. The day after the citation was found, your company sent in your notice of contest (*NOC*) to **OSHA**. However, **OSHA** would not accept your *NOC*, saying it was filed six days past the filing deadline.

You know that under the OSH Act, a failure to notify the Labor Secretary of your intent to contest a citation and proposed penalty within 15 working days means the citation and penalty become a final order of the Occupational Safety and Health Review Commission (*OSHRC*).

*OSHRC* is an independent federal agency created to settle disputes over **OSHA** citations or penalties. The Commission operates in two tiers: its Administrative Law Judges (*ALJs*) hear cases and make decisions; and a panel of Commissioners review *ALJ* decisions at their discretion.

You filed a motion for relief with *OSHRC*, claiming your failure to file in a timely manner was excusable because of the water damage to your headquarters. In response, the Labor Secretary acknowledged receiving the motion and was not opposed to it.

However, on June 9, 2017, the *ALJ* assigned to the case denied your motion, saying your company did not demonstrate that the repairs interfered with your ability to timely file your *NOC*. The judge concluded that your company failed to “maintain orderly office procedures for handling important document.” This, the judge continued, demonstrates “gross carelessness.”

Fast forward to October 12, 2017. *OSHRC* issued a Decision and Remand Order disagreeing with the judge’s decision. *OSHRC* says, “There is nothing in the record to suggest that the citation was initially mishandled or failed to reach the appropriate employee.” In addition, *OSHRC* believes your company had procedures in place for handling and directing the citation for processing. The Commission agrees with you that these procedures were hampered by the unanticipated water damage to your workplace. “In short, nothing in the record supports the judge’s findings of ‘gross carelessness’” on your part.

*OSHRC* also said it was significant that the Labor Secretary did not oppose your motion for relief. Therefore, the Commission concluded that your untimely filing was excusable and reversed the judge’s decision. Your *NOC* has been reinstated and the case has been returned to the judge for further proceedings.

You still need to argue your case against the citations themselves, but at least now you’ll be heard.

## Brake Safety Day Leaves 14% of Trucks Out of Service for Violations, CVSA Says

Roughly one out of every seven trucks and buses inspected during a one-day special brake safety law-enforcement effort in September was placed out of service for brake-related violations, according to the group that coordinated the inspections.

The inspections were part of **Brake Safety Day** on Sept. 7, during which highway patrol officers and inspectors throughout Canada and the United States inspected 7,698 commercial vehicles. And 14%, or 1,064, were put out of service due to brake problems.

By comparison, an unannounced **Brake Safety Day** on May 3 resulted in 12%, or 1,146, commercial vehicles being placed out of service for brake violations. During the May brake event, more than 9,500 commercial vehicles were inspected: 8,140 in the United States and 1,384 in Canada, the **Commercial Vehicle Safety Alliance** said.

**CVSA** represents North American commercial vehicle inspectors.

Those numbers compare with commercial motor vehicle inspectors and other officers placing 13.2% of trucks and buses examined out of service for brake violations during a weeklong law-enforcement operation last year, and with an out-of-service brake rate of 12.3% in 2015 and 16.2% in 2014 during **Brake Safety Days**.

A total of 40 jurisdictions participated in this year's event — 31 American states and nine Canadian provinces.

This year, inspectors had a special focus in mind when they conducted inspections, with an eye on the future of automated vehicles, said Collin Mooney, **CVSA's** executive director.

"For the first time, this year we focused on anti-lock braking systems," Mooney said. "We were trying to get a handle on what sort of issues we have with ABS."

During the Sept. 7 brake day, inspectors logged an 11% violation rate on air-braked power units that required ABS, 14% violation rate on trailers that required ABS, and a 5% violation rate on hydraulic-braked trucks that required ABS.

"Driver-assisted technologies are built off of an underlying functional ABS system. So, as we start to go down this road introducing more automated braking systems, we wanted to see what the maintenance looked like. Maintenance is a challenge with 11% or 14% of the systems not working now," Mooney said.

ABS violations were counted when the malfunction lamp did not work or the malfunction lamp stayed on, indicating a fault of some kind, **CVSA** said.

Besides brake-related violations, 22% of motor vehicles inspected in this year's September event had other violations that caused them to be placed out of service.

"Brake-related violations are the largest percentage of all out-of-service violations cited during roadside inspections," said **CVSA's** president, Capt. Christopher Turner of the **Kansas Highway Patrol**. "Our goal is to reduce the number of crashes caused by faulty braking systems, by conducting roadside inspections, educating drivers, mechanics, owner-operators and others on the importance of proper brake inspection and maintenance."

Since the launch of **Brake Safety Day** in 1998, law enforcement personnel have inspected more than 3.4 million brakes.

Inspection data from this year's brake event also showed that 78% of the vehicles inspected did not have any out-of-service conditions.

**CVSA** said that properly functioning brake systems are crucial to safe commercial motor vehicle operations. Improperly installed or poorly maintained brake systems can reduce braking efficiency and increase the stopping distance of large trucks and buses, posing serious risks to driver and public safety. ABS, combined with the brake system, provides a platform for stability control and for other safety-enhancing systems to function.

### 2018 National Safety Stand-Down to Prevent Falls to be held May 7-11

The fifth annual [National Safety Stand-Down](#) to prevent falls in construction will be held May 7-11, 2018.

Sponsored by **OSHA**, the National Institute for Occupational Safety and Health, and **CPWR** — The Center for Construction Research and Training, the weeklong outreach event encourages employers and workers to pause during the work day to talk about fall hazards and prevention.

In past years, more than 1 million workers participated in events.

## DOT to Add Four Opioids for Transportation Worker Drug Testing

The U.S. Department of Transportation plans on Jan. 1 to begin testing truck drivers and other “safety-sensitive” transportation employees for the semi-synthetic opioids hydrocodone, hydromorphone, oxymorphone and oxycodone, the agency announced Nov. 9.

“Inclusion of these four semi-synthetic opioids is intended to help address the nationwide epidemic of opioid abuse,” the announcement said. “Also, adding these four drugs, which are already tested for in many transportation employers’ non-DOT testing programs because of their widespread use and potentially impairing effect, will allow the DOT to detect a broader range of drugs being used illegally. Transportation industries are not immune to this trend and the safety issues it raises.”

The DOT said it is adding the drug panel to urine testing not only for consistency with the Department of Health and Human Services mandatory guidelines but “as a response to a national problem that can affect transportation safety.”

The agency also said it also is adding methylenedioxymphetamine as an initial test analyte, but removing the drug as a confirmatory test analyte.

“This final rule clarifies certain existing drug-testing program provisions and definitions, makes technical amendments and removes the requirement for employers and consortium/third-party administrators to submit blind specimens,” the DOT announcement said.

About 6.3 million DOT-regulated drug tests are administered annually.

Since 1988, federal regulations have required cocaine and marijuana to be screened by certain employees working at federal agencies. At the time, HHS, which determines drugs that can be tested by federal agencies, said it based the requirement on the incidence and prevalence of the abuse of the two substances in the general population and on the experiences of the departments of Defense and Transportation in screening their workforces.

In 1988, HHS also authorized federal agencies to test their employees for the use of phencyclidine, amphetamines and opiates.

In May 2015, however, HHS concluded that the additional semi-synthetic opioids, oxycodone, oxymorphone, hydrocodone and hydromorphone should be added in the federal program.

DOT first proposed adding the drug tests for the four drugs in January.

There were 52 comments addressing the addition of the specified semi-synthetic opioids to the DOT testing panel. Of those comments, 41 supported the proposed rule, DOT said.

Supporters of the rule generally recognized the need for the department to act consistently with the HHS Mandatory Guidelines and agreed that addressing opioid abuse issues in the context of transportation safety is important.

However, some opposing comments expressed concerns that adding the four substances would increase circumstances in which drivers innocently using opioids, via a prescription for pain medication, could be unfairly treated as drug abusers, with consequent positive tests harming their careers, DOT said.



The commenters said that, for example, a medical review officer might note that an employee had a legally valid prescription for an opioid, which provided a legitimate explanation for a laboratory positive result, but then decide that the employer should be told that the employee’s use of that opioid poses a significant safety risk, endangering the employee’s continued employment.

Given the apparent frequency with which opioids are prescribed, commenters also feared that the occurrence of issues of this kind could increase.

A medical review officer is a licensed physician who is responsible for receiving and reviewing laboratory results generated by an employer’s drug testing program and evaluating medical explanations for certain drug test results.

“Since we already have opiates in the DOT-regulated drug testing panels, adding semi-synthetic opioids to the panel is not a radical change for these highly trained medical doctors and doctors of osteopathy,” the DOT said.

A few comments suggested adding other substances, such as methadone or synthetic cannabinoids, to the drug testing panel. However, DOT said it does not have the authority to add substances such as methadone or synthetic cannabinoids to its panel without the scientific and technical expertise of the HHS, as expressed in the HHS mandatory guidelines.

### ... REMINDER re: Motor Carrier, Broker, Leasing Company or Freight Forwarder Unified Carrier Registration



While it is believed a new rule setting final fees is imminent, the Unified Carrier Registration (UCR) Board of Directors is delaying until further notice the start of the 2018 registration period while the **Federal Motor Carrier Safety Administration (FMCSA)** completes the rulemaking process for 2018 fees.

Due to this unanticipated further delay, UCR is recommending to all states that the enforcement period for 2018 compliance not begin until 90 days after the final rulemaking is published.

The fee levels being proposed are based on a recommendation submitted by UCR to the **FMCSA** in March 2017 to reduce fees for carriers at all levels by 9% in 2018.

Until further notice, please do not submit any carrier fees or forms for the 2018 registration year (*online or paper forms*). If received prior to the final rulemaking, your fees and forms will be returned.

Carriers should expect a further notice soon. We will continue to keep you updated as information becomes available.

# Paper Logs Can Ease ELD Transition

*Mandate for Devices Takes Effect Dec. 18*

Drivers bracing for the upcoming electronic logging device rule should practice driving with the new units and old-fashioned paper logs, according to La Tonya Mimms, transportation specialist with the **Federal Motor Carrier Safety Administration**.

The ELD rule, due to take effect Dec. 18, mandates that commercial drivers who are required to record their hours of service do so with the devices. **FMCSA** divided ELD migration into three periods. Phase 1, which started in February 2016 and concludes Dec. 18, allows drivers to use paper logs, logging software, automatic onboard recording devices and ELDs that are registered with **FMCSA**.

Mimms, who leads the ELD rule implementation plan at **FMCSA**, said drivers making the transition to ELDs should start by using paper logs and relying on their new electronic devices as a form of supporting documentation. She said this practice will give drivers the opportunity to appreciate how much time they are saving when using ELDs versus paper logs.

"I encourage people to take advantage of this during Phase 1 because it gives the driver the opportunity to get used to their device. They can see how much time they're saving with their device as opposed to how much time they're spending recording their hours on a paper log," Mimms said at the Women In Trucking Association's annual conference. "The ELD will record the hours of service by the nanosecond, so the driver's saving time recording their hours of service."

Since February 2016, ELD manufacturers have been able to register and certify their devices with **FMCSA**, and motor carriers could elect to use ELDs listed on the agency's website. Mimms said the agency's list contains about 150 ELDs.

ELD providers are required to use either telematics, such as e-mail and web services, or local connectivity, such as USB drives or Bluetooth. Mimms said that drivers working in remote areas may want to consider using local devices because not all areas have access to an internet connection. She cautioned drivers not to rely on ELDs that print solely from the fleet's back-office system.

"We're working with technology. It fails at times," Mimms said. "That device must be able to display hours of service on the display screen or print hours of service records in the cab."

A YRC Freight driver based in Indianapolis, has experienced the technological snags that can accompany ELD adoption. The driver said she and her fellow drivers still are getting used to the devices, which the fleet installed a month ago. She said the unit is relatively easy to use, but there have been challenges tied to software and connectivity issues. For example, drivers have to step outside the terminal building for their portable devices to load information, which they need to access before they leave for a dispatch.

"Once it works properly, then it's fairly easy. The hard part is getting your information in there before you can leave. It takes time," the driver said. "I think there's a software problem. It's slow. Once they get the bugs in the software worked out, I think it will be easier."

**FMCSA** records nominal violations, which can occur when a driver exceeds his or her hours of service by a small margin. Mimms said that nominal hours-of-service violations have a minimal impact on motor carrier safety scores. She said one purpose of the nominal violation is to track small HOS offenses that may accrue over time.

"We understand that the ELD is going to record hours of service by the nanosecond and, therefore, the driver can exceed the hours of service by a minute. It's a violation. It's not a serious violation; that's why we have the nominal hours-of-service violation to keep record of that driver going over the hours of service," Mimms said. "If that driver continues to go over their hours of service for 10 minutes every day, that can add up to a significant hours-of-service violation by the end of the week."

The ELD mandate ranked to No. 2 this year on the American Transportation Research Institute's list of most critical issues for the trucking industry, which was released Oct. 23. Driver hours-of-service rules was No. 3.

"Start now. Find an ELD on the list. Keep recording on a paper log," Mimms said. "Sit down with your drivers to show them the differences. It's going to speed up the roadside inspection".



## The Heat is On!

Each year in Colorado, nearly 200 people are killed in alcohol-related crashes and 25,000 drivers are arrested for DUI. **Don't be a statistic.**

Use this [website](#) to plan ahead for your holiday party by designating a sober driver, finding a place to park your car overnight, and taking public transportation or a cab.

**Don't risk** a \$10,270 **DUI** this holiday season! Law enforcement agencies across the state will be looking for drunk drivers this holiday season to keep our roads safe.

**MORE HELP —** Download the **R-U-Buzzed app** on your **Android** or **iPhone**. It estimates your **Blood Alcohol Concentration** and will even **call a cab** for you!

Get [additional information](#) for **FREE RIDES** on New Year's Eve!

## PLENTY MORE ON ELD'S...

### ELD Update: FMCSA Softens Violators' Safety Profile Impact

Agency Also Grants Ag Haulers 90-Day Waiver

To ease the trucking industry's transition to the federal electronic logging device mandate, citations issued between Dec. 18 and April 1 for failure to comply with the new law **will not** be posted to motor carriers' safety profiles. But carriers still could be fined, **Federal Motor Carrier Safety Administration** officials said Nov. 20.

The agency also announced that there will be a **90-day temporary waiver** of the ELD requirement for transporters of **agricultural commodities**, formal guidance specifically pertaining to the existing hours-of-service exemption for the agricultural industry, and guidance on the "personal conveyance" provision of the mandate.

"**FMCSA** has listened to important feedback from many stakeholder groups, including agriculture, and will continue to take steps to ease the transition to the full implementation of the ELD rule," said Cathy Gautreaux.

**FMCSA** said it also will provide guidance on the existing **150-air-miles hours-of-service exemption** in order to provide clarity to enforcement and industry. The guidance is designed to allow carriers to maximize the use of this statutory exemption.

Formal guidance is expected to be posted in the **Federal Register** soon, and will include a public comment process.

In August, commercial vehicle inspectors said they may issue citations to motor carriers operating vehicles without electronic logging devices beginning Dec. 18, but will not place vehicles **out of service** until April 1.

"The phase-in is intended to encourage compliance, but not be unreasonable," said Collin Mooney, executive director of the **Commercial Vehicle Safety Alliance**. "But make no mistake about it, enforcement is going to happen."

Mooney said some aspects of **phased-in enforcement** may **vary by law-enforcement jurisdiction**. Some states may issue citations, while others may fine carriers without ELDs. But all jurisdictions will document a violator's inspection report, noting the failure to have an ELD in the truck, and follow up on future stops or roadside inspections to see if violators have complied after the April 1 deadline, Mooney said.



New FMCSA Deputy Administrator Cathy Gautreaux offers no hope on changing the ELD mandate's effective date.

### IN ADDITION... No Points Against CSA Score for ELD Violation During Phase-In Period

Drivers who receive a violation for having **no e-logging device** between Dec. 18 and April 1 will **not have points recorded** against them in the **Compliance, Safety, Accountability** carrier scoring system, safety officials said at a public hearing in Birmingham, Ala. It was previously announced that those drivers also **will not** be put **out of service** during that period.

A driver found after the mandate's implementation, Dec. 18, but before April 1, with no ELD or compliant AOBDR (*automatic onboard recording device*) will be cited for having no log, but it will have no impact on the associated motor carrier's **Safety Measurement System** ranking, said Jon Dierberger, **FMCSA** field administrator.

An AOBDR must have been used in the truck prior to Dec. 18 to be grandfathered in as compliant. As of Dec. 16, 2019, only ELDs that meet **FMCSA** criteria will be compliant.

In her first public appearance since starting her job Monday, **FMCSA** Deputy Administrator Cathy Gautreaux addressed the lingering opposition to the ELD mandate.

"**FMCSA** recognizes motor carriers, particularly independent and small motor carriers, want an extension," Gautreaux said. As for the agency doing so on its own, "**FMCSA cannot arbitrarily change the compliance date** of Dec. 18." The **final rule** was issued more than **two years ago** and the ELD mandate changes nothing about hours of service, so at this point there is **no reason to change it**, she said.

**FMCSA** has been training state-based trainers since October to have all jurisdictions ready for implementing the ELD mandate, she said.

Gautreaux also outlined **three priorities** for the agency: improving highway infrastructure, regulatory reform and safe deployment of autonomous vehicle systems.

**Highway congestion** wastes an estimated **\$3 billion per year** in time and fuel, she said, and highway fatalities have begun to rise again. **FMCSA** hopes to support public-private partnerships that could help solve the problem.

Regulatory reform entails "**removing unworkable and cost-prohibitive regulations**." That has meant, as the Trump administration has dictated, **removing two existing regs for every new one approved**.

**FMCSA** has coordinated meetings for all parties interested in autonomous vehicle development, Gautreaux said. The agency is working toward "**eliminating obstacles and providing opportunities**" for development of "**driver-assisted and automated driving systems**."

The agency is also working with carriers, troopers and others to **expand awareness of human trafficking**. **Inspectors and truck drivers** can do a lot to **detect potential human trafficking** and report it to **law enforcement**, she and others said.

## Trump FMCSA Pick Martinez Supports ELD Mandate, Will Examine Owner-Operator Impact

Raymond P. Martinez, President Trump's pick to run the **Federal Motor Carrier Safety Administration** during his presidency, told a panel of Senators that he **does not have plans** to delay the agency's **Dec. 18 deadline** for compliance with the **electronic logging device mandate** should he be confirmed to run the agency.



However, Martinez did say he intends to examine how the rule could **affect small business truckers**, if confirmed. "I have heard this rule could cause **serious hardship** to some small independent truckers, particularly those in the agriculture sector," he said. "I want to **meet** with those involved who **oppose the rule** to learn more about those concerns."

Martinez testified in front of the **Senate's Commerce Committee** as part of his **confirmation process**. He joined three other nominees picked by Trump to run DOT agencies. The Senate must confirm Martinez via a **simple majority** for him to take the reins of Washington's trucking regulatory body. Trump tapped Martinez in September to head **FMCSA**. Martinez has served as **head of New Jersey's Motor Vehicle Commission** under Gov. Chris Christie since 2010, having served in other motor vehicle-related roles most of his career.

He was asked only a handful of questions, two of which pertained to the **ELD mandate**. "Our goal is not to **cripple commerce**, but to make our **roadways safer**," Martinez said in response to a question from Sen. Ted Cruz (R-Texas). Cruz asked Martinez that, given the **estimated \$2 billion price tag** associated with industry-wide compliance with the mandate, whether he'd **consider delaying** the Dec. 18 deadline.

Martinez said he believes "regulatory reform should be an ongoing process," but that "it's my understanding with regards to **ELDs** that they are **legally required**" ahead of the December deadline. "In the past, it was **paper-based**," he said in response to another question from Sen. Cory Booker (D-N.J.), "which means logs were very **susceptible to fraudulent entries and altered entries**."

Martinez also said he intends to make the agency more **data driven**, particularly when it comes to **targeting high-risk carriers** within the **Compliance, Safety, Accountability** program. **CSA's BASIC** ratings were pulled from **public view** by Congress in 2015, and the **National Academies of Science** this year issued a report to **Congress** and **FMCSA** with recommendations on how the agency can reform the program to make it **more equitable** to carriers and **accurate** in its assessment of **safety risk**.

Martinez told Senators he intends to **review** the report and "make **appropriate changes** and evaluate how best we can **move forward**" with the program. "We need to be using **sound science**. The key thing is whether the **data** we use to compile these assessments are **accurate**, reliable and **fair**. If the data is **unreliable**, we **lose credibility** with stakeholders and the entities we regulate. And we do a **disservice** to the **public**," he said.

## Texas Rep Babin Requests ELD Delay Directly from Trump

### Grassroots Group Launches Letter-Writing Campaign

The Texas representative who has been the principal sponsor of the **H.R. 3282 ELD Extension Act of 2017** two-year **electronic-logging-device mandate** delay has written a **letter** requesting President Trump write an **executive order** to delay the December 18 **mandate enforcement deadline** at least until April Fool's Day next year. April 1 is also the date on which federal and state **law enforcement partners** have stated they will **begin enforcing** the **Commercial Vehicle Safety Alliance's** out-of-service criteria around use of **ELDs**. (Rep Brian Babin [R-Texas] posted the letter to his Facebook page on Nov 9)



Babin's letter says the Congressman consulted the **Congressional Research Service** to determine if such a delay would be **within the purview** of the executive branch, concluding **it would be**. "My preference," Babin writes, "would be to **delay** the rule for as long as it takes, but at a **bare minimum**, I would encourage an initial waiver for all sectors until April 1, 2018." The **Congressman** asked for a response from the President by December 1.

The approximately three-month delay, in addition to conforming with the **CVSA-approved out-of-service criteria enforcement delay**, would eliminate "the very predictable havoc of trying to implement this massive, complicated regulation just a **week before Christmas** - perhaps the busiest time for the consumer freight network of the year," Babin writes, later addressing the president directly. "A few **powerful interests** will tell you that this mandate is good for trucking, and our country, but millions of hardworking people across our country who came together **exactly one year ago** to elect you president **profoundly disagree**."

He went on to cite concerns with the **cybersecurity**, cost and **truck-safety implications** of the mandate. It's the last concern, safety, that is driving a **letter-writing campaign** being spearheaded by Scott Reed, a leader with the **American Trucking Federation (ATF) Facebook group**, which grew out of the **Operation Black and Blue** effort in protesting the mandate recently. **ATF**, Reed says, is encouraging **anti-ELD mandate** partisans to **pen their distaste** for the mandate and support for a **delay on paper-logbook pages** and mail them direct to the White House.

Reed echoes Babin and **certain analyses** performed by the **Owner-Operator Independent Drivers Association** and others that contend, in the words of Rep. Babin, "some of the **large trucking companies** with the **worst safety records** on the road have **already been fully utilizing ELDs** in their fleet for years."

With **enough participation** and a **little luck**, Reed hopes this last-ditch push to get the White House's attention to delay the mandate by executive order will give Babin more time to **successfully pass** the longer delay included in **H.R. 3282**. With reps focused on a **potential tax overhaul** and the **national budget** this year, "it's **not exactly the best time**" to be trying to pass an **actual bill**, Reed acknowledges.

As of **midday** on November 9, 2017, **Babin's bill had 64 cosponsors**, up from around just more than 50 the **first week of October**, when grassroots **ELD mandate protests** took place in Washington, D.C., and **around the country**.

## AND TO CONCLUDE, ONE MORE PERSPECTIVE ON ELD'S...

### Small Business Truckers Decry One-Size-Fits-All Approach to ELDs in House Hearing on Trucking Regs

In addition, Rep. Brian Babin addressed the **House Committee on Small Business** about his proposed legislation to delay the **ELD mandate** for two years in order to “**work out some questions on ELDs.**”

Representatives from the **owner-operator** community and **small fleet** segment told lawmakers in Washington they are not opposed to electronic logs for fleets that find them beneficial, but that **ELDs** are not **one-size-fits-all** technology and should **not be mandated** across the trucking industry.

The **House Committee on Small Business** heard from owner-operators and small business truckers about **federal regulations**, specifically the **ELD mandate** and hours-of-service, and their impact on **small trucking businesses.**

Representatives from the **Owner-Operator Independent Drivers Association**, National Association of Small Trucking Companies, American Pyrotechnics Association and **National Ready Mixed Concrete Association** voiced their concerns of overregulation in the industry, specifically dealing with **hours-of-service.**

Rep. Babin, who **is not a member** of the **Small Business Committee**, was also in attendance for the hearing because of his proposed legislation to **delay the implementation** of the **ELD mandate.** He told the committee he understands **ELDs** do work for **some larger fleets**, but the trucking industry **doesn't allow** for a **one-size-fits-all mandate.**

“I’ve talked to constituents in my district and outside of my district that have **grave concerns** about the unknowns and the question marks about how safe the **ELD mandate** is,” he said. “I’m not trying to **abolish ELDs.** If it saves you money and makes you safer, keep using them. If you like your **ELD**, you can keep your **ELD.**”

Babin said his proposed legislation, which would delay **ELD implementation** for two years, is to give more time to “**work out some questions on ELDs,**” adding “it’s not unreasonable to ask the **DOT** for a waiver to get these questions answered.” However, despite **gaining dozens** of co-sponsors, Babin’s legislation to delay the **ELD mandate** has seen **no action** in Congress and **likely won't** before the Dec. 18 **adoption deadline.**

• Monte Wiederhold, president of seven-truck fleet B.L. Reeve Transport and an OOIDA board member, told the House committee the negative attention the ELD mandate has received from owner-operators and small business truckers stems from the current rigidity of the hours of service regulations.

Wiederhold added that he’s not against the use of ELDs, but he is against the devices being mandated for all truckers. “For small businesses, it’s only a cost,” he said. “There are no savings as FMCSA has said.”

• Marty DiGiacomo, owner-operator of True Blue Transportation and testifying on behalf of NASTC, told the committee he agrees with Wiederhold that ELDs shouldn’t be mandated across the industry.

“If it benefits my business and helps me be safer, I’ll buy it,” he said. “Give us the choice. At some point, I could see looking into it if it benefits me, but right now, it doesn’t because the hours-of-service regulations are the biggest problem.”

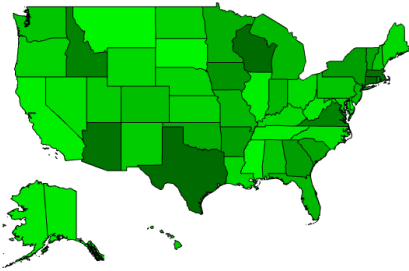
• Also testifying at the hearing were Stephen Pelkey with the American Pyrotechnics Association and Robert Garbini with the National Ready Mixed Concrete Association. Both stated that given the nature of their respective segments of the industry, the ELD mandate poses problems for their members. In both segments, drivers operate under hours exemptions, and Pelkey noted current ELDs aren’t programmed to be able to satisfy those exemptions.

**Committee Chairman** Steve Chabot (R-Ohio) said it’s obvious there is disagreement between small and large trucking companies, and the **committee** will relay the concerns of **small trucking businesses** to their colleagues in **Congress** to consider easing the **regulatory burden** on the industry.

The **American Trucking Associations** submitted comment following the meeting, calling on **Congress** to support **FMCSA** in implementing **ELDs** in December. Collin Stewart, president of 100-plus truck fleet **Stewart Transport Inc.**, said in the **comments** on behalf of **ATA** that **ELDs** don’t change hours-of-service rules, and drivers who claim they “**remove their discretion** in deciding when to take a break or when to drive either **don’t understand** how the **current rules are structured** or are willfully **ignoring them.**”

# Trends in Violations, Inspections Move in Truckers' Favor

2016 clean inspections percentage; National average — 45.8%



The heat map illustrates in the darker areas the states where no-violation inspections account for the highest percentages of the state's overall inspections. The national average noted at top — just under 46 percent of all inspections recorded in the states in 2016 were totally clean inspections — has been growing over the years.

Since year 2012, when the violation-free inspection percentage was below 40 percent, while the total number of inspections has remained relatively level and even fallen a little, violation-free inspection numbers have grown considerably, by more than 18 percent, or almost a full fifth over 2012 levels. The trend really began to accelerate in 2015 and 2016, after creeping along with only slight change in the years prior. If it has kept up this year, we may well see an overall majority of inspections result in no violations next year. While some point to the **CSA** program putting more motor carrier focus on ticky-tacky vehicle and other compliance issues, clean inspection levels perhaps ironically reached their highest levels in the first full year after **CSA** scores were thrown behind the curtain, away from public view, in December 2015. (*Clean inspections generally contribute positively to carriers' numerical rankings, or "scores," in the CSA SMS.*)

**CVSA** Executive Director Colin Mooney also points, however, to an ongoing effort among state enforcement departments to improve the data quality within the **CSA** system by finishing what they started, as we've reported before, which could easily have assumed greater importance after some of the public-use teeth were pulled from **CSA**.

And while more clean inspections overall may well be the reality for inspections recorded in the federal **Motor Carrier Management and Information System** database, road reality stands at odds with the contention that things are improving.

## According to a poll asking the question...

Do you feel clean inspections are more likely to be completed today versus five years ago?

- No, inspectors just get more and more nit-picky on violations **52.02%** (257 votes)
- Yes, I've certainly seen that in my operation **15.59%** (77 votes)
- Yes, but some jurisdictions still don't finish clean inspections often enough **9.92%** (49 votes)
- No **9.72%** (48 votes)
- I'm not sure **9.11%** (45 votes)
- Yes, but I haven't really seen evidence of it **3.64%** (18 votes)

Total Votes: 494

the general **consensus is...** As of the afternoon of Thursday, November 2, around a quarter of operators noted they believed clean inspections were going up, but just 15 percent of the total number of poll respondents said they'd seen evidence of it in their operation. A majority saw more of that nit-picky enforcement so many know well rather than clean inspections.

It turns out there's some evidence of that, too, in analysis of another metric — one that shows the per-inspection intensity in some violation-heavy states.

2016 violations per inspection; National average — 1.5

The national average is not off quite as much as the clean inspections percentage is up, though it did decline by almost 12 percent from its full-year 2015 level.



## Mine Safety and Health Administration Equipment Alert: Manufacturer Notice – Kidde fire extinguisher recall



Kidde Co., is recalling 134 models of plastic-handled fire extinguishers manufactured between 1973 and present day. This action is in concert with an alert from the Consumer Product Safety Commission.

Some extinguishers have been known not to work when needed, others to come apart under pressure - one death has been reported. Some were sold under Kidde's brand, some under the name of other retailers. Kidde will replace all defective models.



[Access the Equipment Alert information here](#)

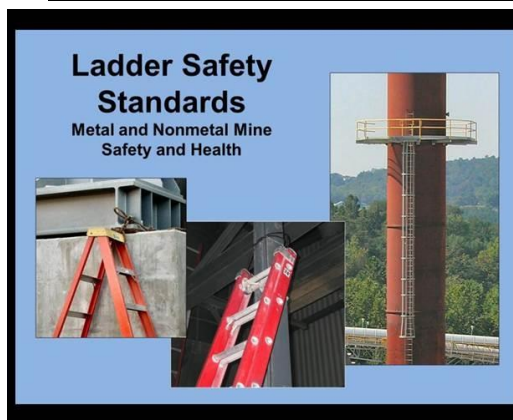
## MNM Serious Accident Alert Facility - Cement

**Facility – Cement** – On August 14, 2017, a miner suffered burns to his body when hot, fine material was flushed out of a kiln dust collector hopper entry port. The miner had removed the cover plate from the hopper's entryway and was beginning to unchoke the hopper, when the hot, fine material flowed out.



### Best Practices

- *Wear appropriate protective clothing when working around superheated materials.*
- *Provide safe access to, from and around all workplaces. Ensure that there is adequate space to work. Install and use remote cameras or similar technologies that provide a view of the interior of the hopper prior to accessing or removing the cover plate.*
- *Install vibrators and/or air cannons on bins to prevent material from clogging or creating an obstruction.*
- *Stay out of the line of fire when unchoking vessels, chutes and hoppers.*
- *Develop safe work procedures when performing hazardous tasks. Always follow established work procedures from your company and the equipment manufacturer.*
- *Instruct supervisors, trainers and workers on safe job procedures and how to recognize and avoid hazards.*



This [guide](#) provides compliance information to help the metal and nonmetal mining industry comply with the requirements of the **MSHA's** ladder standards.

This document is intended to enhance awareness of ladder safety for miners, mine operators, miners' representatives, independent contractors and **MSHA's** Metal and Nonmetal enforcement personnel.

# Substance Abuse in the Workplace

## A Dangerous and Expensive Problem

Alcohol and drug abuse by employees cause many expensive problems for business and industry ranging from lost productivity, injuries, and an increase in health insurance claims. The loss to companies in the United States due to alcohol and drug-related abuse by employees totals \$100 billion a year, according to the **The National Clearinghouse for Alcohol and Drug Information**.

These staggering numbers do not include the cost of diverting company resources, that could be used for other purposes, toward addressing substance abuse issues.

Nor does it include the "**pain and suffering**" aspects, which cannot be measured in economic terms.

Drinking and drugging among U.S. workers create costly medical, social and other problems that affect both employees and employers. Substance abuse among employees can threaten public safety, impair job performance and threaten their own safety.

## Problems Caused in the Workplace

In addition to deaths and accidents, absenteeism and loss of production, other problems that alcohol and drug abuse can cause on the job include:

- ▶ Tardiness/sleeping on the job
- ▶ Hangover or withdrawal affecting job performance
- ▶ Poor decision making
- ▶ Loss of efficiency
- ▶ Theft
- ▶ Lower morale of co-workers
- ▶ Increased likelihood of having trouble with co-workers/supervisors or tasks
- ▶ Preoccupation with obtaining and using substances while at work, interfering with attention and concentration
- ▶ Illegal activities at work including selling illicit drugs to other employees
- ▶ Higher turnover
- ▶ Training of new employees
- ▶ Disciplinary procedures

## Measuring the Costs of Substance Abuse

However, costs to businesses can be measured in the expense of absenteeism, injuries, health insurance claims, loss of productivity, employee morale, theft, and fatalities. According to **NCADI** statistics alcohol and drug users:

- ▶ Are far less productive
- ▶ Use three times as many sick days
- ▶ Are more likely to injure themselves or someone else
- ▶ Are five times more likely to file worker's compensation claims

One survey found that nine percent of heavy drinkers and 10 percent of drug users had missed work because of a hangover, six percent had gone to work high or drunk in the past year, and 11 percent of heavy drinkers and 18 percent of drug users had skipped work in the past month.

## Factors Contributing to Employee Substance Abuse

Research has shown that several factors can contribute to problem drinking and drugging in the workplace. Factors that can encourage or discourage workplace substance abuse include:

- ▶ Workplace culture and acceptance of drinking/drugging
- ▶ Workplace alienation
- ▶ Availability of alcohol and drugs
- ▶ Existence and enforcement of workplace substance abuse policies

## Workplace Culture

The culture of the workplace can play a large role into whether drinking and drug use is accepted and encouraged or discouraged and inhibited. Part of this culture can depend on the gender mix of employees.

In predominantly female occupations research shows that both male and female employees are less likely to have substance abuse problems compared to employees of both genders in male-dominated occupations.

Studies have found that male-dominated occupations create heavy drinking cultures in which employees drink to build solidarity and show conformity. Therefore, these occupations have higher rates of alcohol- and drug-related problems.

Any industry or organization can be affected by workplace alcoholism, but research shows it is prevalent in these industries: food service, construction, mining and drilling, excavation, installation, maintenance, and repair

## Workplace Alienation

Research shows that the job itself can contribute to higher rates of employee substance abuse. Work that is boring, stressful or isolating can contribute to employees' drinking.

Employee substance abuse has been linked with low job autonomy, lack of job complexity, lack of control over work conditions and products, boredom, sexual harassment, verbal and physical aggression, and disrespectful behavior.

## Alcohol Availability

The availability and accessibility of alcohol can influence employee drinking. More than two-thirds of the 984 workers surveyed at a large manufacturing plant said it was "easy" or "very easy" to bring alcohol into the workplace, to drink at workstations, and to drink during breaks. In cultures where alcohol is prohibited, drinking on the job and drinking, in general, is decreased significantly.

## Supervision

The level of supervision on the job can affect drinking and drugging at work rates. A study of evening shift workers, when supervision was reduced, found that employees were more likely to drink at work than highly supervised shifts.

## Casual Drinkers a Problem Too

Remarkably, research shows it is the social drinkers, not the hard-core alcoholics or problem drinkers, who are responsible for most of the lost productivity, according to a *Christian Science Monitor* [article](#), specifically tying the hangover issue to production in the workplace

This study also found that it was managers, not hourly employees, who were most often drinking during the workday. Twenty-three percent of upper managers and 11 percent of first-line supervisors reported having a drink during the workday, compared with only eight percent of hourly employees.

Researchers also found that 21 percent of employees said their own productivity had been affected because of a co-worker's drinking.

## Prevention Works

When the issue of workplace substance abuse is addressed by establishing comprehensive programs, it is a "win-win" situation for both employers and employees, according to the U.S. Department of Labor.

A study of the economic impact of substance abuse treatment in Ohio found significant improvements in job-related performance:

- ▶ 91 percent decrease in absenteeism
- ▶ 88 percent decrease in problems with supervisors
- ▶ 93 percent decrease in mistakes in work
- ▶ 97 percent decrease in on-the-job injuries.

Companies and employers, large and small, can adopt a workplace substance abuse policy that will reduce the loss of productivity and provide a safer work environment for all.

However, you need to make sure you're following the proper steps for successful implementation.

[Read more...](#)

## Drug Testing in the Workplace

### Keeping it Legal Is the Key to Success

