



► **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 Oct 2016:** • *TRAINING CENTER – 246 BASHER DRIVE #1, JOHNSTOWN, CO 80534* • [read more...](#)

**OSHA / CONSTRUCTION NEWS SUMMARY**

► **Roofing Company Fails to Provide Adequate Fall Protection**

*OSHA cites the S. D. company for 2 willful, 8 serious violations*

Federal investigators found a 24-year-old roofing worker, who fell more than 33 feet to his death lacked an adequate [fall protection](#) system and his employer failed to train him to work safely at heights. [read more...](#)

► **OSHA Issues New Guidance on Settlement Approval in Whistleblower Cases**

The **Occupational Safety and Health Administration** has published new [guidelines](#) for approving settlements between employers and employees in whistleblower cases to ensure that settlements do not contain terms that could be interpreted to restrict future whistleblowing. [read more...](#)

► **THE TRIANGLE SHIRTWAIST FACTORY FIRE....**

*the story is old but the same dangerous practices are happening today*

It was around 4:30 in the afternoon on March 25, 1911. Several hundred workers, mostly young women, were nearing the end of their Saturday shift at a blouse or “shirtwaist” factory in New York City. [read more...](#)

**TRANSPORTATION NEWS SUMMARY**

► **UCR Regulatory Alert: UCR Board to Implement 'Mini-Audits' to Uncover Under-Reporting of Vehicles**

Make sure your vehicles on the last MCS-150 match your UCR Registration [read more...](#)

► **CDOT Launches Seatbelt Campaign**

**Year of the Seatbelt 2016**

In 2015, Colorado saw an alarming spike in traffic fatalities, totaling 545 fatalities, compared to 488 in 2014—an 11.7 percent increase. [read more...](#)

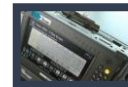
**AN UNBUCKLED PASSENGER INCREASES YOUR RISK OF BEING HURT OR KILLED BY 40%.**

► **CDL Drug/Alcohol Clearinghouse Rule Expected This Month, Driver Training Rule in November**

*The Final Rule for the CDL Drug and Alcohol Clearinghouse was set to be published Sept. 26.* [read more...](#)

► **Court Seems to Lean Toward Keeping ELD Mandate in Place, Trucking Attorney Says**

The **Federal Motor Carrier Safety Administration** rule requiring nearly all truckers to use electronic logging devices starting in December 2017 will likely survive the lawsuit attempting to overturn the rule, said a trucking-focused attorney. [read more...](#)



► **PHMSA, OSHA Issue Guidance On Labeling Hazardous Chemicals**

The **Pipeline and Hazardous Materials Safety Administration** (PHMSA) and the **Occupational Safety and Health Administration** (OSHA) on September 19 issued a joint guidance memorandum clarifying the applicability of their respective requirements for labeling hazardous chemicals. [read more...](#)

▶ **How Are Carriers Responding to ELD Mandate?**

A survey released on September 14 identified that responses to electronic logging device (ELD) implementation and expected impact to capacity and utilization varied heavily by fleet size. [read more...](#)

▶ **FMCSA Issues Final Rule on Windshield-Mounted Safety Devices**

The **Federal Motor Carrier Safety Administration** (FMCSA) issued a **final rule** to **amend** the **Federal Motor Carrier Safety Regulations** (FMCSRs) allowing the **voluntary mounting** of **certain devices** on the **interior** of the **windshields** of **commercial motor vehicles** (CMVs), including **placement** within the **area** that is **swept** by the windshield wipers. [read more...](#)

▶ **FMCSA Denies Inspectors' Request to Rescind 30-Minute Break Rule**

The **Federal Motor Carrier Safety Administration** denied a **petition** made by **North American truck inspectors** asking the agency to **rescind** the **30-minute break** required by **current hours of service** regulations. [read more...](#)

▶ **OOIDA Asks for Removal of Speed Limiter Mandate from Legislation**

The **Owner-Operator Independent Drivers Association** (OOIDA) announced that it has asked the U.S. Senate Committee on Appropriations to **exclude** language from any federal **pending measures** that **mandates** the **installation** of **speed limiters** on **heavy commercial vehicles**. [read more...](#)

▶ *Exemptions to 2017 ELD Compliance* [read more...](#)

MSHA NEWS SUMMARY

▶ **Metal and Nonmetal Mine Safety and Health Resource Page**

In the **MJS Safety newsletter** we've **provided** many **"Safety Alerts"** on a **number** of different **subjects**...including **"Best Practices"** to help you **avoid similar**, often **fatal** incidents. This **Compliance and Policy Updates** page is **designed** to assist **operators** and miners **working** at **metal** and **nonmetal** mines. [read more...](#)



▶ **Stay Out! Stay Alive! Fact Sheet**

Every year, dozens of people are injured or killed while exploring or playing on mine property. Consequently, the U.S. Department of Labor's **Mine Safety and Health Administration** (MSHA) created **"Stay Out – Stay Alive"**, a public safety campaign to educate children and adults about the existing hazards at active and abandoned mine sites. [read more...](#)



MONTHLY SAFETY TIP NEWS SUMMARY

▶ **TOP 10 WORKPLACE SAFETY TIPS EVERY EMPLOYEE SHOULD KNOW**

Workplace safety **cannot exist** on **best practice guidelines** and **policies** alone. [read more...](#)



▶ **~ Flu Season - 2016 ~**

Influenza is a serious disease that can lead to hospitalization and sometimes even death. [read more...](#)

**MJS SAFETY LLC** is proud to announce that we are now available to perform Operator Qualification [OQ] Performance Evaluations under the "EnergyU" system – a service of Midwest ENERGY Association – as well as Veriforce. [call to schedule](#)

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

**MJS SAFETY** 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 Performance Evaluations.

The Operator Qualification Rule – commonly referred to as the "OQ Rule" addressed in Title 49 of the Code of Federal regulations, mandates that individuals who perform "Covered Tasks" on 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.

Make MJS Safety your "GO TO" Resource in 2016

Check here each month for a current class schedule!

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

Just Some of the Courses Offered Include:

- ~PEC SafeLandUSA Basic Orientation
- ~OSHA 10 Hour General Industry
- ~OSHA 30 Hour General Industry
- ~NUCA Confined Space
- ~Hydrogen Sulfide [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 Oct 2016:** • TRAINING CENTER – 246 BASHER DRIVE #1, JOHNSTOWN, CO 80534 •

- PEC Safeland Basic Orientation: Oct 3, 13, 25
- Medic 1<sup>st</sup> Aid Instructor Course: Oct 5
- First Aid/CPR/AED / BLOODBORNE PATHOGENS: Oct 7, 8 a.m.  
(We offer both MEDIC FIRST AID & AMERICAN HEART ASSOCIATION)
- TEEH H2S Operator Training - Awareness: Oct 6, 8 a.m.

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

Go to [mjsafety.com](http://mjsafety.com) for up-to-date class listings  
To sign up for one of these classes, or inquire about scheduling a different class  
Call Carrie at 720-203-4948 or Jeremy at 720-203-6325 or Mike at 303-881-2409

**— FEATURED TRAINING PROGRAMS —**

- Safeland Basic Orientation
- Hydrogen Sulfide Awareness
- First Aid/CPR
- OSHA 10 Hour for General Industry or Construction
- Confined Space for Construction

**— ALSO OFFERING —**

- PEC Basic 10 — 2 days that cover both Safeland and OSHA 10 for General Industry in 1 class

Unable to attend a class?

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

Order  
First Aid  
& other  
Safety Supplies  
[www.mjsafety.com](http://www.mjsafety.com)  
Jeremy 720-203-6325  
Carrie 720-203-4948  
or Mike  
303-881-2409

Online courses provide a convenient way for  
**EMPLOYERS & EMPLOYEES** to complete  
MANDATED, REQUIRED or HIGHLY RECOMMENDED  
training in today's industry  
~ **MANY COURSES ARE ALSO AVAILABLE IN SPANISH** ~

**Need Help With**

- ISNETworld
- PEC/Premier
- PICS
- BROWZ

**CALL US!!!**

**FOR ADDITIONAL INFORMATION CALL  
MJS SAFETY**

JEREMY – 720-203-6325    CARRIE – 720-203-4948    MIKE – 303-881-2409

SOURCES FOR THIS ISSUE INCLUDE  
OSHA  
FMCSA  
MSHA  
Overdrive  
CCJ  
NIOSH  
ISHN  
[www.bts.gov](http://www.bts.gov)  
Arbill  
Logistec/TTS  
PHMSA  
CDOT  
UCR Compliance Unit  
Denver CBS4  
[kelleronline.com](http://kelleronline.com)





## Roofing Company Fails to Provide Adequate Fall Protection

**OSHA cites the S. D. company for 2 willful, 8 serious violations**

Federal investigators found a 24-year-old roofing worker, who fell more than 33 feet to his death lacked an adequate [fall protection](#) system and his employer failed to train him to work safely at heights.

The U.S. Department of Labor's **Occupational Safety and Health Administration** determined the worker, who was installing roofing materials, was outside of a warning line placed on the roof when he fell off the roof at a **Community Center**.

The agency has cited the Roofing Company for putting employees at risk by violating federal fall safety standards after its investigation of the man's April 21, 2016, death. **OSHA** issued two willful and eight serious safety violations to the company on July 28, 2016.

"An adequate fall protection system could have prevented this worker's tragic and avoidable death. An employer who chooses to use a warning line with a monitor, as in this case, must maintain the warning line system, and ensure that work beyond the warning line is appropriately monitored," said Sheila Stanley, **OSHA's** area director in Sioux Falls. "Preventable falls account for nearly 40 percent of all deaths in the construction industry. **OSHA** is committed to protecting construction workers from unnecessary injuries or worse."

**Inspectors also found Pro-Tec Roofing failed to:**

- Train workers on fall protection standards and equipment.
- Have a competent person inspect work sites daily.
- Protect and train workers to recognize and understand the chemical hazards from materials associated with the installation of a synthetic rubber roofing membrane.
- Provide fire extinguishers.
- Follow electrical safe work practices.

The Roofing Company faces \$77,000 in proposed federal fines for these [citations](#).

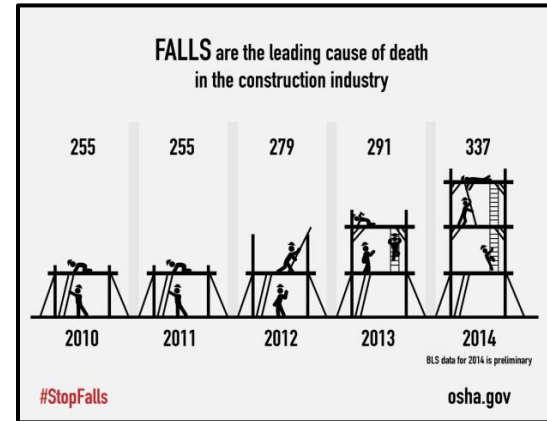
Federal safety and health officials are determined to reduce the numbers of preventable, fall-related deaths in the construction industry. **OSHA** offers a "[Stop Falls](#)" online resource with detailed information in **English** and **Spanish** on fall protection standards. The page provides fact sheets, posters and videos that illustrate various fall hazards and appropriate preventive measures. **OSHA** standards require that an effective form of fall protection be in use when workers perform construction activities 6 feet or more above the next lower level.

The ongoing [Fall Prevention Campaign](#) was developed in partnership with the **National Institute for Occupational Safety and Health** and **NIOSH's National Occupational Research Agenda** program. Begun in 2012, the campaign provides employers with lifesaving information and [educational materials](#) on how to prevent falls, provide the right equipment for workers and train employees to use gear properly.

The Roofing Company had 15 business days from receipt of its citations and penalties to comply, request an informal conference with **OSHA's** area director, or contest the findings before the independent **Occupational Safety and Health Review Commission**.

To ask questions, obtain compliance assistance, file a complaint, or report amputations, eye loss, workplace hospitalizations, fatalities or situations posing imminent danger to workers, the public should call **OSHA's** toll-free hotline at 800-321-OSHA (6742).

## OSHA / CONSTRUCTION



As the construction industry continues to grow, falls continue to be the leading cause of death.

## OSHA Issues New Guidance on Settlement Approval in Whistleblower Cases

The **Occupational Safety and Health Administration** has published new [guidelines](#) for approving settlements between employers and employees in whistleblower cases to ensure that settlements do not contain terms that could be interpreted to restrict future whistleblowing. The guidelines, issued Sept. 9, make clear that **OSHA** will not approve a whistleblower settlement agreement that contains provisions that may discourage whistleblowing without outright prohibiting it, such as:

- Provisions that require employees to waive the right to receive a monetary award from a government-administered whistleblower award for providing information to a government agency about violations of the law.
- Provisions that require the employee to advise the employer before voluntarily communicating with the government or to affirm that the employee is not a whistleblower.

**OSHA** also reserves the right not to approve settlements with liquidated damages provisions that it believes are excessive. The new guidance responds to a March 2015 petition for rulemaking from the Government Accountability Project.

## THE TRIANGLE SHIRTWAIST FACTORY FIRE....

*the story is old but the same dangerous practices are happening today*

It was around 4:30 in the afternoon on March 25, 1911. Several hundred workers, mostly young women, were nearing the end of their Saturday shift at a blouse or “shirtwaist” factory in New York City. No one is quite sure how, but a massive fire erupted and spread quickly.

Most of the doors had been locked by the factory owners, probably to prevent theft and keep workers from taking breaks.

In the end, 146 died, and this horrible event went down in history as the **Triangle Shirtwaist Factory Fire**.

The public outrage from this tragedy served as the basis for many of the worker safety reforms that we take for granted today, in part because of the mark it left on Frances Perkins, who would later serve as the secretary of labor under President Franklin D. Roosevelt.

Frances was visiting a friend who lived near the factory when the fire erupted. They heard the commotion and rushed outside, and then watched in helpless horror as people hurled themselves off the ledges of the building.

More than 100 years later, the **Department of Labor** continues the fight to protect workers, especially the most vulnerable. Like Frances, we want to make sure that this kind of catastrophe never happens again.

But unfortunately, problems with blocked exits and passageways are not remnants of the past. And while these are old problems, we have to tackle them in new ways.



[Read more about the event](#)

For example, over a number of years **OSHA** has received complaints from employees of Dollar Tree stores about blocked emergency exits and obstructed access to exit routes and electrical equipment. In the worst case scenario, if a fire were to erupt or there was another emergency, workers would not be able to reach the emergency exits or turn off the electricity.

**OSHA** addressed these complaints one-by-one, store-by-store. But this was not the most efficient way to handle a serious problem that was occurring at stores throughout the country. In 2015, **OSHA** and the department’s **Office of the Solicitor**, decided to address the big picture. It would no longer be satisfactory for individual Dollar Tree stores to correct these problems. The agencies wanted Dollar Tree to correct these problems nationwide.

At the height of this problem in 2015, 13 different inspections of stores throughout the country resulted in citations for blocked emergency exits, obstructed exit routes, etc. So the agencies approached Dollar Tree about working together on a solution to these problems – a solution and an agreement that would cover all of its stores under federal **OSHA** jurisdiction.

In the end, after months of negotiations, the **Department of Labor** and Dollar Tree reached an [agreement](#) to implement a comprehensive safety and health program that will have a far-reaching, positive effect at 2,400 stores. The agreement called for Dollar Tree management’s commitment to correcting these problems, but we also know employee participation is especially important because it allows employees to have a say in how their workplaces can be made safer. The company’s program will incorporate management commitment, employee participation, hazard identification and control, education and training for employees.

We hope workers will feel empowered to speak up through the new program and the agreement also requires Dollar Tree to make available a toll-free number so employees can anonymously report safety and health issues. Dollar Tree also agreed to publish a corporate newsletter covering safety and health issues. And third-party monitoring will help ensure appropriate safety measures are in place.

It’s thought that Frances Perkins would be proud.



*Congested conditions in the back storeroom of a Texas Dollar Tree store*

## UCR Regulatory Alert: UCR Board to Implement "Mini-Audits" to Uncover Under-Reporting of Vehicles

Make sure your vehicles on the last MCS-150 match your UCR Registration. To add vehicles to your UCR to avoid audit, call (888) 414-1874.

Or, you may file a Biennial Report to adjust the number of vehicles on your MCS-150 to match your UCR filing. Go to [FMCSA's Updating Your Registration or Authority](#) to find links for making a variety of record updates.

Please make sure your MCS-150 and UCR filings accurately and honestly reflect your current fleet size to avoid criminal prosecution for fraud.

For more on the program, please see the draft document below.

### UCR MINI-AUDIT SUMMARY DRAFT

#### BACKGROUND

The UCR Mini-Audit is a methodology for instantly assessing whether a motor carrier is likely to be under-reporting vehicles – intentionally or unintentionally – while registering under the Unified Carrier Registration (UCR) program. The goal of the Mini-Audit is to apply corroborating IRP and MCS-150 information to a UCR registration-in-progress in order to help state administrators and the UCR Board focus on carriers who register a number of vehicles that seems inconsistent with this corroborating information. By conducting the Mini-Audit during the registration process, we have the opportunity to involve the carrier at the “moment of truth” and initiate an audit trail in which the carrier himself is an active participant.

The Mini-Audit is not a substitute for the UCR audit program. The Mini-Audit calls attention to anomalous registration situations while they are “fresh” and asks the carrier and his Base State to do a cursory review of the situation to see if the carrier has, indeed, under-reported and underpaid. If questions remain after the Mini-Audit, the registration can be referred to UCR auditors for a more in-depth review.

#### CONCEPT

In the course of a normal UCR registration, a carrier declares a net number of vehicles owned or operated. The carrier then pays the UCR fee commensurate with that net number of vehicles. The UCR Mini-Audit compares this declaration of net vehicles – prior to the payment of fees – with outside information from the IRP program and from the carrier's USDOT MCS-150 declaration in an attempt to ensure that the carrier is paying for the correct number of vehicles. If anomalies are discovered during this comparison, the carrier is warned prior to completion of the registration. If the registration is then completed with the anomalies still in place, the registration becomes a “registration of interest” and an alert is sent to the UCR administrator in the Base State chosen by the carrier during the registration process. The alert goes into an Alert Tracker which tracks the progress of the administrator toward resolution of the alert.

#### PHASED IMPLEMENTATION

Implementation of Mini-Audits should begin with a small number of situations where the *business rules are simple, the anomalies are glaring and the administrators are already comfortable with the idea of bringing outside information to bear on UCR registrations.* Subsequent phases will focus on expanding these situations, training state administrators and incorporating lessons learned from the initial phase.

#### POTENTIAL ISSUES

“First, Do No Harm” The Mini-Audit is not a punitive mechanism. The UCR Board will determine the rigor with which the Mini-Audit mechanism is to be applied and the situations under which alerts will be issued. When information is compared and cross-referenced, the “benefit of the doubt” will always go to the carrier.

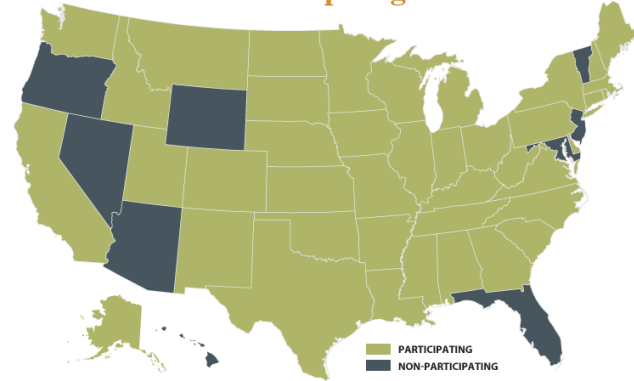
Data is not 100% reliable or available. The data currently used by the Mini-Audit include MCS-150 information and IRP vehicle information. MCS-150 information is self-declared and can be changed at will by the carrier. IRP vehicle information is uploaded to FMCSA from 39 IRP agencies and appears to be somewhat inconsistent. Non-PRISM states are not required to attach DOT numbers to IRP registrations, so IRP vehicle data may not be available or discernible for some carriers. IRP information may not be allowable.

The use of IRP vehicle information to corroborate UCR registration information – even if that information is “bullet-proof” – is a new idea for many states and is not a part of the formal UCR registration process. A few states use the data in their UCR audits, however, which provides the basis and precedent for using the information during the Mini-Audit. State transition/education is required. If the Board decides that state administrators need to act on Mini-Audit alerts, most administrators will need to upgrade both their processes and their knowledge of related programs in order to resolve these alerts.

#### SUMMARY

The goal of the Mini-Audit is to apply corroborating IRP and MCS-150 information to a UCR registration-in-progress in order to help state administrators and the UCR Board focus on carriers who register a number of UCR vehicles that seems inconsistent with this corroborating information. The Mini-Audit is not punitive. Registration anomalies are identified during the registration process and carriers are made aware of these anomalies. Anomalies that are not resolved during the registration process result in an alert being issued to State Administrators for further review and closure. These alerts will be tracked by the Board.

### UCR Participating States



### CDOT Launches Seatbelt Campaign Year of the Seatbelt 2016

**AN UNBUCKLED PASSENGER INCREASES YOUR RISK OF BEING HURT OR KILLED BY 40%.**

*In 2015, Colorado saw an alarming spike in traffic fatalities, totaling 545 fatalities, compared to 488 in 2014—an 11.7 percent increase.*

*As of Sept. 20, there have been 423 traffic fatalities across the state. Last year at this time there were 415. Of those, 147 people were not wearing seatbelts.*

*To represent the danger posed by not buckling up, and the seriousness of the trend, stencils representing those victims in the crashes have been painted on the sidewalks surrounding Civic Center Park. Each stencil has the message:*

**“Be a Survivor. Buckle Up.”**

*“...that was somebody's child, that was somebody's brother, sister, mother, father.*

*Those were real people and those were recent traffic fatalities that occurred just this year!*

*According to CDOT, Colorado lags behind other states when it comes to wearing seatbelts, coming in at 39th in the U.S.*

*CDOT has about \$300,000 set aside to expand the seatbelt safety campaign into 2017.*





## CDL Drug/Alcohol Clearinghouse Rule Expected This Month, Driver Training Rule in November

*The Final Rule for the CDL Drug and Alcohol Clearinghouse was set to be published Sept. 26.*

The Department of Transportation's monthly regulatory update indicates a Final Rule to implement minimum truck driver training standards will publish to the *Federal Register* Nov. 10.

If the Final Rule matches up with the proposed rule released in March, **FMCSA** will implement a core curriculum for new truckers receiving their CDL and require them to receive 30 hours of behind-the-wheel training before being issued the license. Additionally, the proposed rule outlined minimum qualifications related to instructors, testing, training vehicles and more, which would be used to establish a registry of approved trainers. See more on the [Entry-Level Driver Training rule](#).

Other upcoming regulatory includes a Final Rule to establish a Commercial Driver's License Drug and Alcohol Clearinghouse. The rule was expected to be published Sept. 26, according to the DOT's report. It will establish a database of CDL holders who have failed or refused to take a drug test and requires carriers to report the failures and refusals to **FMCSA**.



Owner-operators must also report to **FMCSA** the consortium or third-party drug test administrator it uses and authorize it to submit information on any of its drivers, including themselves, to the database. See more on the [Clearinghouse rule](#).

Since August's report was released, a proposed rule to establish speed limiting devices on trucks was published. The proposed rule didn't specify a speed to which trucks would be governed, and the DOT is looking for public comment before a Final Rule is published in the future. The comment period for the proposed rule is open until Nov. 7. The DOT does, however, appear to be leaning toward a 60, 65 or 68 mph limit on trucks. See details on the [proposed rule](#).

## Court Seems to Lean Toward Keeping ELD Mandate in Place, Trucking Attorney Says

The **Federal Motor Carrier Safety Administration rule** requiring nearly all truckers to use **electronic logging devices** starting in **December 2017** will likely survive the lawsuit attempting to overturn the rule, said a **trucking-focused attorney**.

Tim Wiseman, a partner at the transportation law firm Scopelitis, spoke at the **2016 FTR Conference** in Indianapolis Sept. 14. "The **three-judge panel** was very **suspect** of the arguments that **OOIDA** was making and seemed to be **much more** in favor of the attorneys of the agency," Wiseman said of the oral arguments made in the **7th Circuit Court of Appeals** on Sept. 13.



"**FMCSA** did a pretty decent job addressing the concerns the court laid out the last go around with driver privacy and harassment," he said. "There are **no guarantees**, but if I was a betting man, I would say it's going to be upheld."

Wiseman said he's **unsure** as to when a decision will be made in the case. "January, maybe at the earliest," he said. **OOIDA** has said that it **hoped** to see a decision on the **ELD mandate** before the end of the year.

**OOIDA** filed a lawsuit against **FMCSA** and its rule in **March**, claiming the rule violates truckers' **Constitutional rights** to privacy, because they track truckers in real time. **OOIDA** also argues the rule fails to meet **statutory requirements** set by **Congress** and still **does not fully protect** truckers against harassment from carriers.

**FMCSA**, however, argues otherwise, claiming the rule shores up the harassment concerns that caused its prior **ELD mandate** to be struck down. The rule will also **increase hours of service compliance** and boost **highway safety**, **FMCSA** claims.

## PHMSA, OSHA Issue Guidance On Labeling Hazardous Chemicals

The Pipeline and Hazardous Materials Safety Administration (PHMSA) and the Occupational Safety and Health Administration (OSHA) on **September 19** issued a **joint guidance memorandum** clarifying the applicability of their respective requirements for labeling hazardous chemicals.



The [joint memo](#) provides an overview of each agency's scope of authority, and guidance on the applicability of PHMSA and OSHA labeling requirements with an emphasis on **bulk packaging** used in **transportation** and in the **workplace**. With reference to this guidance, labeling includes all **Department of Transportation** placarding, signs, and other markings.

PHMSA labeling requirements may be found in the [U.S. Hazardous Materials Regulations](#) (HMR; 49 CFR Parts 100-180), and OSHA labeling requirements may be found in the [Hazard Communication Standard](#) (HCS 2012; 29 CFR §1910.1200).



## How Are Carriers Responding to ELD Mandate?

A survey released on September 14 identified that responses to electronic logging device (ELD) implementation and expected impact to capacity and utilization varied heavily by fleet size.

The Electronic Logging Device survey, conducted by Transplace was done to gain insight into implementation preparedness and expected impact for transportation carriers. It included results from more than 400 carriers of various profiles.

### Key observations from the ELD Survey include:

**ELD implementation varied heavily by fleet size.** The study revealed that there is a significant difference in the amount of implemented ELDs between large and small fleets. Eighty-one percent of large fleets (more than 250 trucks) reported that they had achieved full ELD implementation, with the remaining 19 percent working towards implementation. Conversely, small fleets (less than 250 trucks) have been much slower to integrate ELDs, with only 33 percent having fully integrated ELDs into their fleet. Another 29 percent have begun the implementation process, while the remaining 38 percent have no immediate plans to begin implementation.

**Capacity and utilization expected to change, but the amount varies.** While most carriers expect their capacity or utilization to be affected as a result of ELDs, 56 percent of large fleets expect their utilization to decrease while 32 percent expect to see no impact from their implementation. Smaller fleets are even more cautious about how their utilization will be affected, with 64 percent expecting a decrease, while 25 percent expecting to see no change.

**ELDs have led to a reduction in hours-of-service (HOS) and logging violations.** Of those carriers that have implemented ELDs, 84 percent of large fleets and 56 percent of smaller fleets reported a reduction in HOS and logging violations.

**Business benefits of ELDs.** Carriers reported several benefits as a result of ELD utilization within their companies, including: improved monitoring (33 percent); better driver and equipment utilization (21 percent); driver convenience (10 percent); reduced operating costs (two percent); fuel savings (two percent); and other (32 percent).

**Drivers left the industry as a result of ELDs.** Fifty-one percent of carriers indicated that they have lost drivers who did not want to operate under ELDs. While most indicated that they only lost a few drivers.

**ELDs will have a significant financial impact.** While all carriers surveyed expect a financial impact as a result, the average financial impact per unit varies: \$100-\$300 (18 percent); \$300-\$500 (19 percent); \$500-\$700 (18 percent); and more than \$700 (45 percent).

## FMCSA Issues Final Rule on Windshield-Mounted Safety Devices

The **Federal Motor Carrier Safety Administration** (FMCSA) issued a **final rule** to **amend** the **Federal Motor Carrier Safety Regulations** (FMCSRs) allowing the **voluntary mounting** of **certain devices** on the **interior** of the **windshields** of **commercial motor vehicles** (CMVs), including **placement** within the **area** that is **swept** by the **windshield wipers**.

Section 5301 of the **Fixing America's Surface Transportation Act** (FAST Act) directs the **Agency** to **amend** the **FMCSRs** to **allow devices** to be **mounted** on the **windshield** that utilize **vehicle safety technology**.

Vehicle **safety technology** includes a **fleet-related incident** management system, **performance** or **behavior management system**, **speed management system**, **lane departure warning system**, **forward collision warning** or **mitigation system**, **active cruise control system**, and **transponder**.

In addition, **section 5301** states that all **windshield-mounted devices** and technologies with a **limited two-year exemption** in **effect** on the date of **enactment** shall be **considered** to meet the **equivalent-or-greater** safety standard required for the **initial exemption**.

This **final rule** is effective **October 24, 2016**. Petitions for **Reconsideration** of this **final rule** must be **submitted** to the **FMCSA Administrator** no later than **October 24, 2016**.

## FMCSA Denies Inspectors' Request to Rescind 30-Minute Break Rule

The **Federal Motor Carrier Safety Administration** denied a **petition** made by **North American truck inspectors** asking the agency to **rescind** the **30-minute break** required by **current hours of service** regulations.

The **30-minute rest break** requirement was **instituted** July 1, 2013. The **Commercial Vehicle Safety Alliance** filed a **petition** last year asking **FMCSA** to **rescind** the **rule**, saying it was **difficult** to **enforce**, allows **greater opportunity** for **falsified duty logs** and contributes **little** to **on-highway safety**. **CVSA** represents **truck and bus inspectors** in **North America**, including **national**, **state** and **local field inspectors**.

**FMCSA**, however, **disagrees** with **CVSA's** assertions. In a **letter sent** to **CVSA** Aug. 8, **FMCSA** defended the **safety benefits** of the **30-minute break** requirement. It also **noted** the **August 2013** ruling by a **U.S. Appeals Court** that **upheld** the **requirement** for **long-haul operators**.

"The **agency stands** by its 2011 **preamble** and finds **no merit** in **CVSA's** challenge to the **value** of the **30-minute rest break** requirement," **FMCSA** writes. "The **fact** that **CVSA** believes the **provision** may be **difficult** to **enforce** does not **negate** its **safety benefit**. This is **especially true** given the lack of **data** to **support** the **contention** that the rule is **difficult** to **enforce**."

**Truck operators** are **required** to take a **30-minute break** within their **first eight hours** on duty each day. **FMCSA** says **data gleaned** in 2013, 2014 and 2015 **relative** to the **30-minute break** support the **agency's decision** to uphold the **break requirement**.

"Given the **number** of **violations cited** during **roadside inspections**, there is **no reason** to believe that **enforcement officials** are having any difficulty **documenting** these violations," **FMCSA** writes.

## OOIDA Asks for Removal of Speed Limiter Mandate from Legislation

The **Owner-Operator Independent Drivers Association (OOIDA)** announced that it has asked the U.S. Senate Committee on Appropriations to exclude language from any federal spending measures that mandates the installation of speed limiters on heavy commercial vehicles. The Association says that to do so would undermine the regulatory process and take away the public's ability to make informed comments to an already proposed rule.

The **Federal Motor Carrier Safety Administration (FMCSA)** and the **National Highway Traffic Safety Administration (NHTSA)** recently announced a notice of proposed rulemaking that would require each new U.S. multipurpose passenger vehicle, truck, bus, and school bus with a gross vehicle weight rating (GVWR) of more than 26,000 pounds be equipped with a speed limiting device.

**OOIDA** points out that language currently included in the **Senate Transportation, Housing, and Urban Development Funding (THUD) bill** would force **FMCSA** and **NHTSA** to issue a final rule that mandates this policy, ignoring the ability of industry stakeholders to help shape the regulations affecting them through the traditional federal rulemaking process.

The Association says that Congress should take time to understand the impact this policy would have on highway safety and allow the rulemaking process to continue rather than imposing a mandate through the appropriations process.

### Exemptions to 2017 ELD Compliance

- ▶ Owner-operators of pre-2000 model year trucks (determined by the truck's VIN, not the engine) are exempted from the requirement to use an ELD.
- ▶ Owner-operators running under the various short-haul exemptions to the requirements to log records of duty status will not be required to use an ELD unless they cross the air-mile threshold of their particular exemption for more than eight days in any 30-day period. FMCSA didn't address the various short-haul hours of service exceptions directly within the ELD rule but rather has made ELD use contingent on that threshold.
- ▶ An operator that already was using a CFR 395.15-compliant automatic onboard recording device (AOBRD) prior to the compliance date in December has two years after December 2017 before being required to use an ELD.

## Metal and Nonmetal Mine Safety and Health Resource Page

In the **MJS Safety newsletter** we've provided many "**Safety Alerts**" on a **number** of different **subjects**...including "**Best Practices**" to help you **avoid similar**, often **fatal** incidents. This **Compliance and Policy Updates** page is **designed** to assist **operators** and miners **working** at **metal** and **nonmetal** mines.

Metal and **nonmetal mining** is divided into four **broad categories**: metal, **nonmetal**, stone, and **sand and gravel**. These broad **categories** encompass **approximately** 80 different **commodities** that are mined to **provide** the **raw materials** for producing items **found** all around us in our **everyday** lives.

Use this helpful **resource** to find information on **subjects** of **interest** to you and your **business** operation.



### Stay Out! Stay Alive! Fact Sheet

Every year, dozens of people are injured or killed while exploring or playing on mine property. Consequently, the U.S. Department of Labor's **Mine Safety and Health Administration** (MSHA) created "**Stay Out – Stay Alive**", a public safety campaign to educate children and adults about the existing hazards at active and abandoned mine sites. The campaign is a partnership made up of nearly 70 federal and state agencies, private organizations, businesses and individuals. These groups visit schools and communities nationwide to distribute educational materials and discuss the importance of mining and its existing hazards.

#### **Mining is a fundamental component of the American economy.**

Over half of the electricity generated in the United States comes from coal. Sand, gravel, limestone and other rock products are used in the construction industry. Salt keeps wintry roads free of ice. Gold, silver, iron, copper and many other minerals are essential to our national prosperity.

**Mines are located in every state** - from small sand and gravel operations to complex underground coal, salt, limestone or metal mines, to extensive surface operations that use some of the largest industrial equipment ever built. There are about 14,000 active and as many as 500,000 abandoned mines in the nation. As cities and towns spread into the surrounding countryside and more people visit remote locations, the possibility of contact with an active or abandoned mine increases.

#### **Dangers Exist at Active and Abandoned Mine Sites.**

The men and women employed in our nation's mines are trained to work in a safe manner. For the unauthorized explorer, hiker, off-roader or rockhound, however, the hazards are not always apparent. Active and abandoned mine sites have proved to be an irresistible "**and sometimes deadly**" draw for children and adults.

- » Vertical shafts can be hundreds of feet deep. At the surface, they may be completely unprotected, hidden by vegetation or covered by rotting boards.
- » Horizontal openings may seem sturdy, but rotting timbers and unstable rock formations make cave-ins a real danger. Darkness and debris add to the hazards.
- » Lethal concentrations of deadly gases (methane, carbon monoxide, carbon dioxide and hydrogen sulfide) can accumulate in underground passages.
- » Unused or misfired explosives can become unstable and deadly vibrations from a touch or footfall can trigger an explosion.
- » Excavated vertical cliffs (highwalls) in open pit mines and quarries can be unstable and prone to collapse.
- » Hills of loose material in stockpiles or refuse heaps can easily collapse upon an unsuspecting biker or climber.
- » Water-filled quarries and pits hide rock ledges, old machinery and other hazards. The water can be deceptively deep and dangerously cold. Steep, slippery walls make exiting these swimming holes extremely difficult.

Any community with active or abandoned mines, quarries or pits could become the scene of the next tragedy. For more information on "**Stay Out – Stay Alive**" or how to become a partner in this campaign, contact **the Mine Safety and Health Administration** at 202-693-9400.

MSHA's toll-free hotline for reporting unsafe access to mine sites is 1-800-746-1553.

MSHA's web address is [www.msha.gov](http://www.msha.gov)

## TOP 10 WORKPLACE SAFETY TIPS EVERY EMPLOYEE SHOULD KNOW

Workplace safety **cannot exist** on **best practice guidelines** and **policies** alone. A **safe working environment** is based on **how well** the people, in **both management** and on the **factory floor**, adhere to -- and **communicate about** -- safety **standards**.

The **foundation** of any **successful workplace safety effort** is one that **encourages employees** to identify **unsafe behaviors** and **opportunities** for **improvement** while also making **well-informed safety decisions** during **daily routine tasks**.

Here's the ***Top 10 Workplace Safety Tips Every Employee Should Know*** to help you **inform your own workers** and **create a workplace safety environment** based on **shared responsibility**:

1. **Be Aware of Your Surroundings**  
This step requires knowing the particular hazards of your job or workplace. Once you've learned these risks, you are able to keep clear of potential hazardous areas, and potential hazardous situations. Also, always be alert of machinery.
2. **Keep Correct Posture to Protect Your Back**  
If you work at a desk, keep your shoulders in line with your hips to avoid back problems. If you're picking things up, use correct form so your back doesn't get hurt. Avoid stooping and twisting. If possible, always use ergonomic designed furniture and safety equipment so everything you need is within easy reach.
3. **Take Regular Breaks**  
So many work-related injuries and illnesses occur because a worker is tired, burned out and not alert to their surroundings. Taking regular breaks helps you stay fresh on the job. One trick to staying alert is to schedule the most difficult tasks when your concentration is best, like first thing in the morning.
4. **Use Tools and Machines Properly**  
Take the proper precautions when using tools, and never take shortcuts. Taking shortcuts is the leading cause of workplace injury. It's a huge safety risk to use scaffolding as a ladder or one tool in place of another for a specific job. Using tools the right way greatly reduces the chance of workplace injury.
5. **Keep Emergency Exits Easily Accessible**  
In case of an emergency, you'll need quick, easy access to the exits. It's also recommended to keep clear access to equipment shutoffs in case you need to quickly stop them from functioning.
6. **Report Unsafe Conditions to Your Supervisor**  
Your supervisor needs to be informed about any workplace safety hazards or risks. They are legally obligated to ensure their employees have a safe working environment and will take care of the unsafe conditions and make them safe for you and your coworkers.
7. **Use Mechanical Aids Whenever Possible**  
Instead of attempting to carry or lift something that's really heavy in an attempt to save a sliver of time during your workday, take the extra minute to use a wheelbarrow, conveyor belt, crank or forklift. Too many injury risks are involved with trying to lift something that weighs too much.
8. **Stay Sober**  
Around three percent of workplace fatalities occur due to alcohol and drugs. When a worker's ability to exercise judgment, coordination, motor control, concentration or alertness is compromised, this leads to any number of risks for workplace injury and fatalities.
9. **Reduce Workplace Stress**  
Stress can lead to depression and concentration problems. Common causes of workplace stress include long hours, heavy workload, job insecurity and conflicts with coworkers or managers. Take your concerns about workplace stress to your supervisor to see how they might help you address them.
10. **Wear The Correct Safety Equipment**  
If you're not wearing the correct [safety equipment](#) for a task, you may get injured. Depending on the job, equipment like earplugs, earmuffs, hard hats, safety goggles, gloves or a full-face mask greatly reduce the risk of workplace injury.



**MJS Safety** can help with your workplace safety & risk questions and concerns.

Call CARRIE - 720-203-4948  
JEREMY - 720-203-6325  
or MIKE - 303-881-2409  
today to schedule a safety consultation.

It's up to **facility managers** and **business owners** to get their **employees onboard** with **workplace safety efforts**, encouraging them to **become active members** in the **process**. Share with them the **workplace injury statistics** and the **inherent risks** their job presents to them on a **daily basis**. Provide **incentives** that **reward** them for **exemplifying** great **workplace safety behavior**. These **simple initiatives** really do make all of the **difference**.

### ~ Flu Season - 2016 ~

Influenza is a serious disease that can lead to hospitalization and sometimes even death. Every flu season is different, and influenza infection can affect people differently. Even healthy people can get very sick from the flu and spread it to others. "Flu Season" in the United States can begin as early as October and last as late as May. During this time, flu viruses are circulating at higher levels in the U.S. population. An annual seasonal flu vaccine is the best way to reduce the chances that you will get seasonal flu and spread it to others. When more people get vaccinated against the flu, less flu can spread through that community.

It takes about two weeks after vaccination for antibodies to develop in the body and provide protection against influenza virus infection. That's why it's better to get vaccinated early in the fall, before the flu season really gets under way. See more [Key Facts About Seasonal Flu Vaccine](#)