MONTHLY NEWSLETTER JUNE 2018 VOLUME 10 ISSUE 6

▶ 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 June 2018: • *TRAINING CENTER - 1760 BROAD ST, UNIT H, MILLIKEN, CO 80543* • read more…

OSHA/CONSTRUCTION NEWS SUMMARY

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This event reinforces importance of using trench protective systems read more…

▶ NUCA REPORTS CASE IN POINT – WHY SETTING ASIDE TIME TO TALK ABOUT SAFETY IS CRUCIAL

Court Ruling Overturns Limitations on OSHA Repeat Violations. The new penalty for serious violations is $12,934, and for willful or repeat violations $129,336. read more…

▶ U.S. Department of Labor Cites Contractor for Exposing Workers to Trenching, Other Safety Hazards on North Dakota Municipal Project

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▶ A Critical Performance Check: Bump Testing Your Gas Detector

You wouldn't drive a vehicle without putting on your seatbelt. You wouldn't ride a bike without putting on a helmet. read more…

▶ Quest Analysis: Drug Use Among Workers Holds at High Rate

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▶ Senate Panel Wants Explanation for Delays on Hair Testing Guidelines

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► FMCSA Includes ELD Violations in Revised CSA Methodology

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► Annual Roadcheck Inspection Spree June 5-7 *FOCUS ON HOURS VIOLATIONS*

The **Commercial Vehicle Safety Alliance's annual International Roadcheck**, a three-day ramp up of **truck** and **bus enforcement** across **North America,** is scheduled for **June 5-7.** read more…

► FMCSA Notice on the National Registry of Certified Medical Examiners

The **Federal Motor Carrier Safety Administration** is **ensuring** the **stability** of the **National Registry of Certified Medical Examiners** (*NRCME*) **website,** the **security** of the **data,** and the **privacy** of **drivers** and **medical examiners.** read more…

► ELDs Up the Ante on Parking

The electronic logging device mandate has had the unintended effect of adding new pressure to the parking situation along busy corridors across the nation. read more…

► Clock Ticking for Ag Haulers to Adopt an ELD

Enforcement of the **U.S. DOT's** electronic logging device mandate for drivers who haul agricultural commodities is just weeks away, with the six-month exemption granted by the **DOT** to such truckers sunsetting June 18. read more…

MSHA NEWS SUMMARY

► MSHA FINAL RULE ON EXAMINATION OF WORKING PLACES IN MINES

In April, the **Mine Safety and Health Administration** (*MSHA*) published a final rule regarding the examinations of working places in metal and nonmetal mines. This amends a rule issued in January, 2017. read more…

MONTHLY SAFETY TIP NEWS SUMMARY

► Welding Operators Face a Variety of Hazards

Organizations such as the **American Conference of Governmental Industrial Hygienists** (*ACGIH®*) and **OSHA** offer **safety guidelines** to help **employers** and workers **avoid welding hazards.** read more…

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.

If we can be of assistance with these types of services for your company, please **call to schedule**.

MJS Safety — your "GO TO" Resource in 2018

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

Just Some of the Courses Offered Include:

~PEC SafeLandUSA Basic Orientation
~OSHA 10 Hour General Industry
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~Hydrogen Sulfide [H_2S] - Awareness
~Respirator: Medical Evaluation & Fit Testing
~Hazard Communication – GHS Training
~Teens & Trucks Safety
~1st Aid/CPR Course- Medic 1st Aid
~HAZWOPER 8, 24 & 40 Hour
~PEC'S Intro to Pipeline
~Confined Space Rescuer Training
~PEC Core Compliance
~OSHA 10 Hour Construction
~OSHA 30 Hour Construction
~NUCA Competent Person for Excavation & Trenching
~Hands-on Fire Extinguisher training
~DOT Hazmat Training
~MSHA Sand & Gravel Training [Part 46 only]
~Fall Protection for the Competent Person
~Defensive Driving Safety for large and small vehicles
~Instructor Development for Medic 1st Aid/CPR
~Bloodborne Pathogens Compliance Training
~Respiratory Protection Training

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

Schedule of classes June 2018: • *Training Center - 1760 Broad St, Unit H, Milliken, CO 80543*

- **PEC Safeland Basic Orientation: June 8, 15, 26; 8 – 4:30**
- **First Aid/CPR/AED/BLOODBORNE PATHOGENS: June 14, 19; 8 — noon**
  (We offer both MEDIC FIRST AID & AMERICAN HEART ASSOCIATION)
- **TEEX H2S Operator Training – Awareness (ANSI Z390 Course): June 14, 19; 12:30 – 4:30**
- **OSHA 10 Hour Outreach Course - General Industry: June 6, 7**

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

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

GO TO mjssafety.com FOR UP-TO-DATE CLASS LISTINGS
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Call Carrie at 720-203-4948 or Jeremy at 720-203-6325 or Mike at 303-881-2409

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TT Express
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Trench Safety Stand Down

JUNE 18-23, 2018

This event reinforces importance of using trench protective systems

The 2018 Trench Safety Stand Down is sponsored by the National Utility Contractors Association (NUCA), North American Excavation Shoring Association (NAXSA) and the Safety Ambassadors Club.

The 2018 Trench Safety Stand Down is officially endorsed by OSHA

What is a Safety Stand Down?

A **Safety Stand Down** presents the opportunity for employers to talk directly to employees and others about safety. This **Stand Down** will focus on trench and excavation hazards and reinforce the importance of using trench protective systems and protecting workers from trenching hazards.

Stand Down goals

The goal is to reach out to the many workers who work in and around trenches and excavations to provide them with information about current excavation requirements and safety procedures for working in trenches.

By reaching as many workers as possible, employers can reduce the number of fatalities and serious injuries that occur each year.

Who can participate?

Anyone who wants to prevent trenching and excavation hazards in the workplace can participate in the **Stand Down. NUCA** encourages utility construction, residential, highway construction, plumbers, military, unions, associations, educational institutes, and safety equipment manufacturers to participate.

How to get involved

Companies can participate in the **Stand Down** as **"Participating Organizations."** To become a **Participating Organization** and to receive a **Trench Safety Stand Down** flyer with your company's logo:

1. Contact **NUCA** at safety@nuca.com;
2. Provide company name and state;
3. Request to have company or organization logo inserted;
4. Attach logo to email — logos must be a minimum of 2.75" by 1.5" at 300 dpi. Preferred formats are: .png or .tiff with transparency or .eps;
5. Provide email address;
6. **NUCA** will insert your logo and email promotion to you;
7. Print as many copies as needed.

How to conduct a Safety Stand Down

Companies can conduct a **Trench Safety Stand Down** by taking a break to have a toolbox talk or another safety activity to draw attention to the specific hazards related to working in and around trenches and excavations.

Recognition of participation

NUCA asks that companies provide feedback about their **Stand Down,** such as when it was held, how many workers participated, and how you shared information with employees. **NUCA** will collect the information, publicize the overall total number of participants, and publish the names of the companies that held a **Trench Safety Stand Down. NUCA** will also provide a **Certificate of Participation** which will be emailed to all participating companies.

Download the **Trench Safety Stand Down Completion** form.

NUCA REPORTS CASE IN POINT - WHY SETTING ASIDE TIME TO TALK ABOUT SAFETY IS CRUCIAL

Court Ruling Overturns Limitations on OSHA Repeat Violations
The new penalty for serious violations is $12,934,
and for willful or repeat violations $129,336.

Following a case involving a worker being injured in a cave-in at an excavation site in New York City, the court of appeals ruled that **OSHA** repeat violations are not limited to 5 years.

The contractor was cited by **OSHA** for not providing a protective system (*shoring, shielding, or sloping*) for a trench more than 5-feet deep. In addition, the citation was classified as a repeat violation because of two similar previous trench violations issued to the contractor in 2009 and 2011.

Prior to 2015, **OSHA** limited the practice of issuing repeat violations to three years. However, that year **OSHA** revised its **Field Operations Manual** (*FOM*), changing the period of repeat violations to five years. In the above case, the court pointed out that neither the **Occupational Safety and Health Act** nor the regulations **OSHA** had issued under the **Act** spelled out any time period that limited the issuance of repeat citations.

The court also noted that the previous **Occupational Safety and Health Review Commission** precedent had established that the time limitation set forth in the enforcement manual **"is only a guide"** and **"is not binding on OSHA or the commission,"** which also freed **OSHA** from only being able to review a certain number of years to classify violations as repeat.

This decision creates a potentially huge problem for employers whose companies have been cited by **OSHA** in the past. **OSHA's** database does not drop violations from the record after 5 years. How far back can they look? **OSHA** has been keeping records for longer than 5 years. It's not out of the question that they can look back 20+ years. Additionally, penalties for violations are now subject to annual adjustment for inflation.

Avoiding Repeat Violations

How should employers respond to this decision? Attorneys at the law firm of Fisher Phillips have some ideas. First of all, they point out that employers don't need to fear confronting this issue at all if they can adhere to safety practices that don't draw **OSHA** citations to begin with.

"First and foremost, employers should continue to effectuate their safety policies and to emphasize a safety-first culture in the workplace," the attorneys stress. "This is the best practice to avoid most **OSHA** inspections and citation."

If **OSHA** inspectors find what they believe is a violation resulting in a citation, employers should reexamine their policy if in the past they chose to simply pay the fee to avoid incurring the costs associated with fighting it. "The cost-benefit analysis for contesting non-repeat citations has changed," the attorneys emphasize. "Employers should seriously consider whether to contest citations to which they have a good faith defense so that those citations do not later form the basis of a repeat citation."

If in the past an employer thought that contesting a $12,500 serious citation was not worth the legal cost, the risk of being hit with a repeat violation of $125,000 several years down the road may tilt the balance toward contesting those lesser citations. "Pay special attention to any citation that involves a routine activity, task, or equipment where a repeat is more likely to arise in the future."

The attorneys also reinforce the importance of maintaining comprehensive records and data regarding prior **OSHA** inspections and citations to ensure that citations regarding the same hazards don't reoccur. "This will hopefully prevent the issuance of a repeat citation, no matter what the repeat time period **OSHA** may attempt to enforce," they say.

Although the court decision didn't really create new law, it should remind employers that **OSHA** has broad enforcement discretion with respect to its repeat violation period. The attorneys conclude, "remain proactive in your efforts to develop a robust safety program in order to minimize **OSHA** citations and avoid the higher penalties associated with repeat citations."

U.S. Department of Labor Cites Contractor for Exposing Workers to Trenching, Other Safety Hazards on North Dakota Municipal Project

The U.S. Department of Labor's Occupational Safety and Health Administration (*OSHA*) has cited an excavation contractor on a North Dakota Municipal Project for exposing employees to trench cave-ins and other serious hazards while installing water metering pits and lines. The company faces proposed penalties of $454,750.

OSHA inspected the Logan and Kidder Counties water project site in September and October 2017. Inspectors determined that the company failed to protect employees from struck-by hazards; did not place excavated soil piles far enough away from trench edges; and failed to utilize appropriate protective systems during trenching operations. The company did not identify hazards and take corrective action when warranted.

"Trenching and excavation are among the most hazardous construction operations, and employers have an obligation to follow safety requirements designed to protect their workers," said Eric Brooks, OSHA Bismarck Area Office Director. "This employer's failure to install protective systems put workers at risk of serious injuries from a trench collapse."

The company has contested the citations. The case will be reviewed by an independent Occupational Safety and Health Review Commission.

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.

A Critical Performance Check: Bump Testing Your Gas Detector

You wouldn't drive a vehicle without putting on your seatbelt. You wouldn't ride a bike without putting on a helmet. You don't go to bed at night without locking your doors. Everyday practices like these create good habits that make our lives easier and safer.

When it comes to gas detection, safe and simple practices like these are no different. Gas detectors that are used every day require the same type of attention. You may not think much about putting on a seatbelt in a vehicle, but it sure does help when you need it. You may also not think much about bump testing a gas detector, but it sure does help to know that your gas detector works when you need it most.

What is a bump test and why is it important?

Bump testing is the only way to ensure proper sensor and alarm functionality. A bump test is defined as the process of briefly exposing sensors in a gas detector to an expected concentration of gas that is greater than the alarm set points. The purpose of the bump test is to check for sensor and alarm functionality. However, it does not check for accuracy. It is important to note that accuracy is ensured through calibration, which is a completely different process than bump testing.

The first thing you should do before using your gas detector is to make sure it works. Without a bump test, how do you know that the gas detector you have can perform the way you need it to? Applying gas to the sensors in a detector is just like checking to see if a flashlight works. If the bump test fails, you know that troubleshooting or further maintenance is required.

Gas detectors are made to survive harsh environments. They are often dropped, exposed to extreme temperatures, humidity, moisture, dust, mud, and sludge. Any of these can factor into a gas detector's performance. Sensors can become dislodged if a monitor is dropped. Filters can become clogged from moisture or dust. Enough mud or sludge can completely block a sensor from seeing gas. Because of these factors, manufacturers recommend bump testing gas detectors before each day's use. You may not realize it, but all of these factors that occur during day-to-day use can impact a gas detector's performance.

How does bump testing work?

For toxic and combustible sensors, the typical output in clean air is zero, whether reading in parts per million (PPM), percent of lower explosive limit (LEL), or percent by volume. One main exception to this is an oxygen sensor, which should read around 20.9% volume in ambient air when functioning. So bump testing a standard four-gas instrument will drive the gas readings up on your toxic and combustible sensors, while driving the reading for the oxygen sensor down.

The problem is that toxic and combustible sensors will generally read zero in an ambient environment whether they are functioning or not. Therefore, the only way to know if they will respond to gas is by, you guessed it, exposing them to gas.

How can I bump test my instrument?

Because of the broad range of gas detector applications, manufacturers have come up with many different ways to perform bump tests. The easiest and usually most efficient way to bump test is by using docking stations, which are often connected to web-based gas detection management software. Through this software, users can schedule bump tests to occur every day. If a failure occurs, the software can notify the user or safety manager of the failure, so they know that further action is needed. Docking stations draw gas through a connected cylinder, and then apply that gas to the detector that is docked. The stations are designed to resemble a manual bump test.

Manual bump tests are performed simply by using a gas bottle, a regulator, tubing, a calibration cup (if using a diffusion instrument), and a gas detector. Users can put the instrument into bump test mode, then apply the gas. The gas detector will either cycle through each individual sensor or do them all at once, depending on instrument settings. After the test is complete, the instrument will display results, showing whether it was a passed or failed test. Alternatively, users can perform a manual bump test simply by applying gas to the instrument while it is on its main gas reading screen.

What are the challenges of bump testing?

The need for bump testing can create some challenges. The number of instruments a company has, the applications, and locations of equipment can all come into play. For this reason, gas cylinders come in a variety of sizes. Users may need larger cylinders to connect to docking stations that are used every day. Users may also need smaller, more portable cylinders to bump test instruments when workers are on the go. Luckily for users, there is a wide array of cylinders available to fit the right application.

Another challenge of bump testing is the training aspect. It is often difficult for safety managers to find time to train users, and workers often do not have time to train one another. Luckily, gas detection companies offer a wide array of training resources available to end users.

The bottom line

The bottom line is that bump testing saves lives. Users should never risk using a gas detector without checking to make sure it is functioning. With the right training, understanding, and repetition, bump testing a gas detector can become as routine as putting on a seatbelt when you get into your car. It is just as important, so why not start now?

Quest Analysis: Drug Use Among Workers Holds at High Rate

Driven by increases in **cocaine,** methamphetamine and **marijuana,** drug use in **2017** by the general **U.S. workforce** held **steady** at its **highest rate** in more than a **decade,** according to an **analysis** by drug test lab **Quest Diagnostics.**

Quest said that the **nationwide positivity rate** of **10 million workers** it tested last year **remained** at **4.2%,** the same as **2016,** but a **dramatic increase** over the **3.5% rate** for 2012, a **30-year low.**

The **analysis** includes, but does not **specifically break down,** drug use for the **nation's transportation industry** and **truck drivers,** a **Quest spokesman** said.

Nationally, the **positivity rate** for **opiates** among workers in **urine drug testing** declined **17%** in 2017 from the **prior year.** Quest's **analysis** of **2017 data** also documents **shifting patterns** of drug use, with **cocaine** and **amphetamine positivity** surging in **some areas** of the **country** and **marijuana positivity** rising **sharply** in states with **newer recreational-use** statutes.

"It's **unfortunate** that we mark **30 years** of the **Drug-Free Workplace Act** with **clear evidence** that drugs continue to **invade** the **country's** workplaces. Not only have **declines** appeared to have **bottomed out,** but also in some **drug classes** and areas of the **country** drug-positivity **rates** are **increasing,"** Barry Sample, **Quest's senior director** for science and **technology,** said in a statement. "These **changing patterns** and geographical **variations** may **challenge** the ability of **employers** to anticipate the **'drug of choice'** for their workforce or where to **best focus** their **drug prevention efforts** to ensure a **safe** and healthy **work environment."**

The **Quest Diagnostics Drug Testing Index** examines **test results** according to **three categories** of workers: **federally mandated,** safety-sensitive workers; the **general workforce;** and the combined **U.S. workforce.**

Federally mandated, safety-sensitive **workers** include **pilots,** bus and **truck drivers,** workers in **nuclear power plants** and workers required to **submit** to drug tests by the **U.S. Department** of **Transportation** and the **Nuclear Regulatory Commission.**

Quest Diagnostics said it has **analyzed** annual workplace **drug testing data** since **1988.**

Senate Panel Wants Explanation for Delays on Hair Testing Guidelines

A Senate committee on May 22 unanimously approved a bill that would require the **Department of Health and Human Services** to provide an explanation for a 15-month delay in issuing mandatory federal hair testing guidelines for such safety-sensitive transportation employees as truck drivers.

The bill, introduced earlier this month by **Committee on Commerce, Science and Transportation Chairman** Sen. John Thune (R-S.D.), also would require **HHS** to report progress on hair testing every 30 days and lay out a schedule, including benchmarks, for completion of hair testing guidelines.

Thune's bill, if passed by **Congress,** also calls on **HHS** to issue final federal oral fluid testing guidelines by Dec. 31, study the possibility of adding a federal drug testing panel for the opiate drug fentanyl, and directs the **Government Accountability Office** to review the **Department of Transportation's** collection, use and availability of drug and alcohol testing data. It also would expand drug testing requirements for certain rail employees.

Urinalysis is **currently** the **only federally approved drug-testing method** for **truck drivers.**

A drug testing advisory board for an **HHS** sub-agency, the **Substance Abuse and Mental Health Services Administration,** has been working on the guidelines for the past two years, only recently completing a draft proposal that has not yet been made public.

Although **Congress** mandated that the hair-test rule be implemented by the end of 2016, Ron Flegel, chairman of the **SAMHSA** (*Substance Abuse and Mental Health Services Administration*) drug testing board, has said there still is no established timeline for review of the proposal before it is published in the **Federal Register** for public comment.

"There are some scientific technical issues that have been addressed through literature or specific studies," Flegel told board members at a March 20 meeting at the **SAMHSA** headquarters in Rockville, Md. "In order to develop scientifically sound mandatory guidelines the rule requires addressing these two specific scientific issues for the use of hair as a drug testing specimen. The timeline is not really static."

Those issues, which include the impact of hair color and decontamination of hair specimens, have been resolved in the draft proposal, Flegel said. However, before the proposal can be posted in the **Federal Register,** it must gain approval of **HHS** and the **White House Office of Management and Budget,** according to Flegel.

Some motor carriers have been hair testing for years. Not only do hair samples have a longer detection window — up to 90 days — but the samples are collected in an observed test, preventing drivers from cheating.

Federal approval of the hair alternative would decrease the costs for carriers that currently conduct both urine and hair sample tests, as they would be required to conduct just one of the tests.

In a May 18 letter to Thune supporting the bill, **American Trucking Associations** President Chris Spear said the legislation was **"important and timely."**

"By expanding drug testing requirements for certain rail employees, reviewing **DOT's** collection and use of drug and alcohol testing data, evaluating the addition of fentanyl to the drug testing panel, and encouraging **SAMHSA** to complete its work on guidelines to allow for both oral fluid and hair testing, the **Fighting Opioid Abuse in Transportation Act** will provide the trucking industry and other transportation modes with the tools to better combat drug abuse, and thus improve the safety of our roads and bridges," Spear wrote.

Thune said his bill, the **Fighting Opioid Abuse in Transportation Act** (*S 2848*), is intended to stem the opioid epidemic in the United States.

"In 2016 alone, more than 42,000 people died from opioid overdoses," Thune said during the committee's executive meeting. "Widespread abuse affects all industries and transportation is no exception."

On Jan. 1, **DOT** began testing truck drivers and other safety-sensitive transportation employees for the semi-synthetic opioids hydrocodone, hydromorphone, oxymorphone and oxycodone. The agency has yet to report on the number of positive test results under the new requirement.

Drivers Hauling Frack Sand May Qualify for HOS Waiting Time Exception

Criteria must be met to be considered specialized oilfield equipment

Drivers hauling sand used for hydraulic fracturing (*i.e., frack sand*) are now eligible to use an hours-of-service exception that extends the workday if their equipment meets specific criteria.

Previously, drivers transporting materials like frack sand to or from oil and gas well sites did not qualify for the "waiting time" exception in 49 CFR Sec. 395.1(d)(2). Now the agency says it has been persuaded to change its mind after hearing a "compelling argument" from the industry.

The exception allows certain specially-trained operators of specialized equipment to extend their 14-hour workday with time spent waiting at a well site. The waiting time must to be annotated on the driver's log as "waiting time" or placed on a fifth duty-status line.

Who qualifies?

Not all drivers transporting frack sand are allowed to use the exception. **FMCSA** has indicated that motor carriers will need to "assess their equipment and driver training and determine whether they meet the criteria" to use the exception.

Those criteria include:

- *The vehicle being specially constructed for use at oil and gas well sites; and*
- *The driver being trained extensively in the operation of the complex equipment, in addition to driving the vehicle.*

Examples of equipment that typically qualifies for the exception include heavy-coil vehicles, missile trailers, nitrogen pumps, wire-line trucks, sand storage trailers, cement pumps, frack pumps, blenders, hydration pumps, and separators.

As a result of the new allowance for sand haulers, **FMCSA** says it will update existing **FMCSA** guidance for Sec. 395.8, under Question 8, which describes the types of operations eligible to use the exception.

CSA System Updated with New ELD Violations, Severity Weights

As of April 1, **new violations** associated with the **Federal Motor Carrier Safety Administration's electronic logging device mandate** are now **associated** with the **Hours of Service Compliance BASIC** category in the **CSA** program's **Safety Measurement System,** the agency noted.

"These **violations** are not being applied **retroactively;** violations **recorded prior** to April 1, 2018 will **not be counted** in **SMS,"** though carriers having **received** a **violation** for not having an **ELD** on board and in use **should pay close attention** to the **code utilized** on the **inspection report.** If the **violation** was issued **before April 1** with a **code** that is something **other than** 395.22(a), such **situated carriers** may have **grounds** for a **DataQs-system** challenge to have the **code changed** to **remove** the **violation** (*often encoded under 395.8 or 395.15 sections*) from **scoring** in the **system.**

Motor carriers that have received **ELD-related violations** post-April 1 will have **"started to see** them **reflected** in their **HOS Compliance BASIC** in early May 2018," **FMCSA** says, "when the **next monthly SMS results** are **released."**

With the **most recent update,** several **new violations** are **available** and **severity weights** associated with them in the **internal** safety-scoring **program** have been **determined** and **newly published.** Among them are **new code variations** on the **395.8(a) violation** incurred for having **no record** of **duty status/no logbook** when **required,** all of which come with a **5 (***out of 10***) severity weight,** two **additional points** added when an **out of service order** is **associated.**

*****395.8A-ELD***, having no logbook when an **ELD** is required
*****395.8A-NON-ELD***, the same violation but incurred when an **ELD** is not required (*such as in the case of an **ELD**-exempt truck*)
*****395.8A1***, incurred for not using the appropriate method to record hours of service

A **complete list** of the **ELD violations** and their **severity weights,** the **majority** of which are **very low 1 weights,** is **available** in the SMS Appendix A spreadsheet, which you can download via this link. The primary **CSA SMS Methodology** document, **FMCSA** says, will be updated following the **May data update.**

The Hours performance measure in the CSA SMS will be impacted by new ELD-related violations for carriers. Percentile rankings associated with each carrier remain hidden from view of the public per Congressional action.

FMCSA Includes ELD Violations in Revised CSA Methodology

22 new HOS violations added to accommodate full enforcement of ELD mandate

The **Federal Motor Carrier Safety Administration** (*FMCSA*) has updated its list of **Hours-of-Service** (*HOS*) violations used in the **Compliance, Safety, Accountability** (*CSA*) enforcement model.

The agency **added 22** roadside **inspection violations** to its **HOS Compliance BASIC** (*Behavior Analysis and Safety Improvement Category*). The bulk of the changes address the use of **electronic logging devices** (*ELDs*).

Prior to April 1, 2018, **roadside inspectors** noted **ELD violations** on roadside **inspection reports,** but **drivers** were not **placed out** of service and the **violations** were not **calculated** into the **HOS Compliance BASIC.**

However, **ELD violations** occurring **during roadside** inspections **effective** April 1, 2018, will **result** in **out-of-service orders** and **impact** the **CSA HOS Compliance BASIC** score.

As a **result** of **full** enforcement, **FMCSA** needed to **revise** its **CSA methodology** to include **ELD violations.** Following is a **list** of the new **HOS violations** and **assessed severity values:**

Citation	Description	Severity value
395.8A-ELD	ELD - No record of duty status (ELD Required)	5
395.8A-NON-ELD	No record of duty status when one is required (ELD Not Required)	5
395.8A1	Not using the appropriate method to record hours of service	5
395.11G	Failing to provide supporting documents in the driver's possession upon request	7
395.20B	The ELD's display screen cannot be viewed outside of the commercial motor vehicle	5
395.22A	Operating with a device that is not registered with FMCSA	5
395.22G	Portable ELD not mounted in a fixed position and visible to driver	1
395.22H1	Driver failing to maintain ELD user's manual	1
395.22H2	Driver failing to maintain ELD instruction sheet	1
395.22H3	Driver failed to maintain instruction sheet for ELD malfunction reporting requirements	1
395.22H4	Driver failed to maintain supply of blank driver's records of duty status graph-grids	1
395.24C1I	Driver failed to make annotations when applicable	1
395.24C1II	Driver failed to manually add location description	1
395.24C1III	Driver failed to add file comment per safety officer's request	1
395.24C2I	Driver failed to manually add CMV power unit number	1
395.24C2II	Driver failed to manually add the trailer number	1
395.24C2III	Driver failed to manually add shipping document number	1
395.28	Driver failed to select/deselect or annotate a special driving category or exempt status	1
395.30B1	Driver failed to certify the accuracy of the information gathered by the ELD	1
395.30C	Failing to follow the prompts from the ELD when editing/adding missing information	1
395.32B	Driver failed to assume or decline unassigned driving time	5
395.34A1	Failing to note malfunction that requires use of paper log	5

See a more detailed list of **new HOS violations** and **severity values.**

Annual Roadcheck Inspection Spree June 5-7

FOCUS ON HOURS VIOLATIONS

The **Commercial Vehicle Safety Alliance's annual International Roadcheck**, a three-day ramp up of **truck** and **bus enforcement** across **North America,** is scheduled for **June 5-7.**

This year's focus will be on **hours-of-service compliance,** says **CVSA**, due in part to the implementation of the **U.S. DOT's electronic logging device mandate.**

"The **top reason** drivers were placed **out of service** during **2017 International Roadcheck** was for **hours-of-service violations,"** said **CVSA** President Capt. Christopher Turner of the **Kansas Highway Patrol.** "Although the **electronic logging device rule** that went into effect on **Dec. 18** does **not change** any of the underlying **hours-of-service rules** or **exceptions,** the **ELD mandate** placed a spotlight on **hours-of-service compliance.** We thought this year would be a **perfect opportunity** to focus on the **importance** of the **hours-of-service regulations."**

However, inspectors will **perform full Level I inspections** on most rigs checked during the inspection blitz. **Level I inspections** are the **most thorough,** including **examination** of both **driver compliance** and **vehicle-related violations.**

CVSA has said in years past that an average of **15 trucks** and **buses** are inspected **every minute** across **North America** during the **72-hour event.** In last year's **Roadcheck**, 15,000 **out-of-service orders** were issued. Of those, **12,000** were for **vehicle-related violations** and **3,000** were for **driver-related violations.** Violations related to **hours of service** and **brakes** topped the **out-of-service infractions.** Enforcers in **2017** conducted more than **63,000 inspections** during the **72-hour event.**

Watch for information in next month's newsletter…ENFORCEMENT PERSONNEL ON THE LOOKOUT FOR UNSAFE COMMERCIAL AND PASSENGER VEHICLE DRIVERS DURING OPERATION SAFE DRIVER WEEK, JULY 15-21

FMCSA Notice on the National Registry of Certified Medical Examiners

The Federal Motor Carrier Safety Administration is **ensuring** the **stability** of the **National Registry of Certified Medical Examiners** (*NRCME*) **website,** the **security** of the **data,** and the **privacy** of **drivers** and **medical examiners.** This is of paramount **concern.** There was an **unsuccessful** attempt by **someone** to compromise the **NRCME** website. It is **conclusive** that there was **no personal information** exposed.

Currently, there are **several key** features available on the **National Registry.** As of **April 6, 2018,** healthcare professionals **wishing** to become a **certified medical examiner** listed on the **National Registry** are able to register. FMCSA previously **released** a static **look-up function** allowing both **State Driver's Licensing Agencies** (*SDLA*) and **employers** to check the **validity** of **medical cards.** Additionally, in February 2018, FCMSA corrected **erroneous** email **notifications** that were sent to certain **medical examiners** incorrectly **stating** that they would be **removed** based on **out-of-date** information.

There are more than **58,000 certified** medical **examiners** on the **National Registry** that can continue to **perform medical exams** on **commercial** truck and bus **drivers.** These certified **medical examiners** can continue **conducting** physical qualification **examinations** and issue a paper **Medical Examiner's Certificate** (*MEC*), **Form MCSA-5876** to qualified **drivers.** Medical examiners should **segregate** all examinations **completed** while the functionality was **offline** and be prepared to **upload** them to the **National Registry** system when it is **fully available,** without **penalties.**

FMCSA and **UDDOT** will continue to **work** to **address** these issues as the **website** is brought fully **back online.**

For **updates** and status, visit the **National Registry** of **Certified Medical Examiners** website here.

ELDs Up the Ante on Parking

The electronic logging device mandate has had the unintended effect of adding new pressure to the parking situation along busy corridors across the nation.

Truck stop chains seem to have anticipated the swelling demand, some converting formerly open spaces to pay-to-park spots available only with reservations. While some drivers frown on the practice – denouncing reservation systems as a means to pad revenue at the expense of loyal customers – truck stop chains insist the reservation option benefits drivers.

A spokesman for Pilot Flying J, compares the situation to playing musical chairs. "The song is getting shorter and shorter, and chairs are being taken away in the middle of the song. It puts artificial pressure on certain times of the day and makes it harder and harder for drivers to find spots."

The reservation system enables drivers to plan better and helps mitigate the stress associated with finding parking, he says.

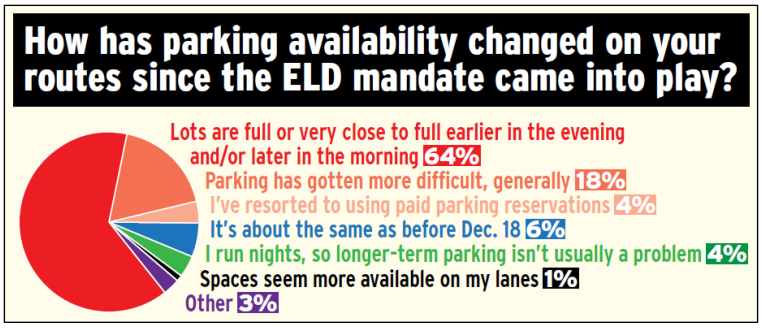
Since late 2017, TA/Petro has seen its share of reserved spaces grow a few percentage points to 12 percent of its total spaces, says a company spokesperson. That's due in part to the ELD mandate, he says, and "a shift in drivers understanding that this could help them."

While truck stop pay-to-park without a fuel purchase was common in past decades, it fell out of fashion as chains competed for business. Now some lots are more than half-allocated to reserved spaces, and prices appear to be climbing. TA/Petro's reserved pricing starts at $12 and ranges to $18, covering a 24-hour period. Prices for reserved spaces at Pilot Flying J stops run about the same, though they vary by timing and location.

One driver called the paid parking"one more way for truck stops to increase their revenue at the expense of the drivers. Truckers are just cash cows to the stockholders."

The spokesman for one of the truck stops acknowledges that some drivers still have an issue with paid reservations. Yet owner-operators who use the system "will tell you it's a godsend," he says, noting they often pass the costs on to customers and see their available drive time boosted.

Rigid application of the hours of service rule under the ELD mandate only compounds the pressure on parking, especially on heavily trafficked corridors and around metro areas. With truckers subject to the 10-hour off-duty period and the majority of them running days, that means parking spaces are occupied longer around sunset and daybreak.



The **Federal Motor Carrier Safety Administration's** rep Sharon Worthy did not respond to a request for comment on whether this development was foreseen by regulators as a potential consequence of the e-log shift.

The **Commercial Vehicle Safety Alliance** asked its state enforcement members whether officers had seen changes in parking availability with truckers' adjustment to ELDs. Sgt. Walter Newton of Delaware's truck enforcement unit noted there's been no increase in the frequency of drivers stopping to ask for long-term parking at two weigh stations along I-95, a practice typically not allowed.

What has changed, though, is increased awareness of the parking issue among drivers and enforcement personnel, he says. At the top, **FMCSA** recently announced intentions to conduct another survey about parking needs as part of its compliance with the Jason's Law provisions in the **2012 MAP-21** highway bill.

Newton says Delaware has large parking facilities – a rest area and a truck stop – downstream from their scale locations where drivers can go. Even those facilities can fill up at peak times.

The widely-used **Trucker Path app** allows users to report parking availability (*"Lots of spots," "Some spots," and "Lot full"*) at most any facility around the nation. Trucker Path's Sam Bokher analyzed driver reports in March and April of 2017, comparing them to the same months this year, after the ELD mandate came into play.

"There isn't much difference between 2017 and 2018" in the driver-report data, Bokher says. But when he analyzed the number of searches for parking information from within the app, it told a different story, one that's of a piece with Sergeant Newton's contention that the real change is in awareness of parking issues. Increased operational planning around parking, too, seems to be a reality. While **Trucker Path's** user base increased just 20 percent over the time period analyzed, parking-info look-ups as drivers planned stops had nearly doubled, with a very steep curve upward in search numbers between 3 and 8 p.m. Eastern time.

An owner-operator who specializes in step deck freight along the congested I-5 corridor between his Washington State home and Northern California, has seen the peak extension phenomenon firsthand. Before the mandate, he says, "things were really starting to get pretty full at rest areas and other places" by 8 or 9 p.m. Now "you have to plan your schedule to be parked by six in the evening."

Clock Ticking for Ag Haulers to Adopt an ELD

Enforcement of the **U.S. DOT's** electronic logging device mandate for drivers who haul agricultural commodities is just weeks away, with the six-month exemption granted by the **DOT** to such truckers sunsetting June 18.

Truckers who haul livestock and insects still have until the end of September to adopt an electronic logging device, due to a Congressional directive passed in March. But drivers hauling non-livestock ag commodities, such as produce, feed and fertilizer, must begin using an **ELD** to record duty status by June 19, the date that enforcers will begin issuing citations and out-of-service orders for non-compliance, says the **Federal Motor Carrier Safety Administration**.

FMCSA in December announced they were providing ag haulers an extra three months — until March 18 — to adopt an **ELD,** but later extended the waiver until June. The extensions were meant to give the agency time to "continue to work on outreach and communication with the ag community so that they have the fullest understanding of the rule and regulations," said **FMCSA** head of enforcement Joe DeLorenzo in March.

An **FMCSA** spokesperson last week confirmed that ag haulers' six-month compliance extension lasts through June 18, with enforcement beginning June 19.

Drivers who haul agricultural commodities within a 150-air-mile radius of their load's source are exempt from hours of service regulations, meaning they will not have to adopt an **ELD** before the June 19 enforcement date. Only drivers required to keep records of duty status will need to comply with the **ELD** mandate.

MSHA FINAL RULE ON EXAMINATION OF WORKING PLACES IN MINES

In April, the **Mine Safety and Health Administration** (*MSHA*) published a final rule regarding the examinations of working places in metal and nonmetal mines. This amends a rule issued in January, 2017.

According to **MSHA,** the revised rule requires that:

- *A competent person examine each working place for conditions that may adversely affect the safety or health of miners. The working place must be examined at least once each shift, before work begins or as miners begin work in that place.*
- *Promptly initiate appropriate corrective action when adverse conditions are found.*
- *Promptly notify miners in affected areas if adverse conditions are found and not corrected before miners are potentially exposed.*
- *Withdraw all persons from affected areas when alerted to any conditions that may present an imminent danger, until the danger is abated.*
- *Create an examination record before the end of each shift.*
  - The name of the person conducting the examination;
  - Date of the examination;
  - Location of all areas examined;
  - A description of each condition found that may adversely affect the safety or health of miners that is not promptly corrected; and
  - The date when the described condition is corrected.
- *Make the examination record available to **MSHA** and miners' representatives, with a copy provided upon request.*

The effective date for the ruling is June 2, 2018. There will be a **Video Teleconference** (*VTC*) meeting on June 6, 2018 at 11 a.m. Eastern time and work through lunch. To participate by **VTC** send an email to zzMSHAcomments@ dol.gov noting you will be attending at a **MSHA VTC-capable** office.

MSHA District Office 9
Denver Federal Center
6th & Kipling, 2nd Street
Bldg. 25
Denver, CO 80225
Enter through Gate 2-Visitors
303-231-5465

MSHA Part 46 regulations require that new miners, or first-time workers, complete a minimum of 24 hours of training within their first 90 days of employment, 4 hours of which must be completed prior to beginning work at the mine.

If you're in the mining and extraction industry and need safety training for your workers,
MJS Safety offers **MSHA Part 46 and Part 48** training.
We offer **Part 46 New Miner Training** in a classroom setting
and **Part 46 & Part 48 Training** as web - based training.

To sign up for one of these classes
Call Carrie at 720-203-4948 or Jeremy at 720-203-6325 or Mike at 303-881-2409

Welding Operators Face a Variety of Hazards

Organizations such as the **American Conference of Governmental Industrial Hygienists** (*ACGIH®*) and **OSHA** offer **safety guidelines** to help **employers** and workers **avoid welding hazards.**

Employers should ensure **all workers** have an **opportunity** to comply with the **following,** important **guidelines** in the **workplace:**

- *Read and understand manufacturer instructions for equipment*
- *Carefully review material safety data sheets*
- *Follow your company's internal safety practices*
- *Awareness of the most common welding hazards and knowing how to avoid them ensures a safe, productive work environment for all.*

— Electric shock

Electric shock is one of the **most serious** and **immediate risks** facing a **welder.** The higher the **voltage,** the higher the **current** and, thus the **higher** the risk for the **electric shock** to result in **injury** or **death.**

The most **common type** of **electric shock** is secondary **voltage shock** from an **arc welding circuit,** which ranges from **20** to **100 volts.** Even a shock of **50 volts** or less can be **enough** to injure or **kill** an operator, **depending** on the conditions. Due to its **constant change** in **polarity,** alternating current (*AC*) **voltage** is more likely to **stop** the heart than **direct current** (*DC*) welders. It is also **more likely** to make the person **holding** the wire **unable** to **let go.**

To avoid secondary **voltage shock,** welding operators should **wear dry gloves** in good **condition,** never touch the **electrode** or metal parts of the **electrode holder** with skin or **wet clothing** and insulate **themselves** from the work and **ground,** keeping **dry insulation** between their **body** and the metal being **welded** or ground (*such as a metal floor or wet surface*).

Welding operators also should **inspect** the **electrode holder** for damage before **beginning** to weld and **keep** the welding cable and **electrode holder** insulation in good **condition.** The **plastic** or fiber insulation on the **electrode** holder prevents **contact** with the electrically **"hot"** metal **parts** inside. Repair or replace **damaged insulation** before use. Also, **stick** electrodes are **always electrically "hot",** even when **welding** is not being **done** and the voltage is the **highest.**

An **even more** serious shock, primary **voltage shock,** may occur when a welder **touches** electrically **"hot"** parts inside the **welder case** or the **electric distribution** system to which the **welder** is connected. This **action** can lead to a **shock** of **230** or **460 volts.**

When not in use, but **still** turned on, most **welding equipment** have a **voltage** that ranges from **20** to **100 volts** at the **welding circuit** and voltages **inside** the **welding** equipment may **range** from **120 volts** to **more** than **575 volts,** all of which pose a **risk** for **electric shock.** Only qualified **repair technicians** should **attempt** to service or **repair welding** equipment.

— Fumes and gases

Overexposure to **welding fumes** and gases can be **hazardous** to your **health.** Welding fume **contains** potentially harmful **complex metal** oxide compounds from **consumables,** base metal and the **base-metal coatings.** It's **important** to keep your head **out** of the **fumes** and use **enough ventilation** and/or **exhaust** to control your **exposure** to substances in the **fume,** depending on the **type** of rod and base **metal** being used.

The specific **potential health** effects which **relate** to the **welding consumable** product being **used** can be **found** in the **health hazard** data section of the **safety data** sheet available from your **employer** or the **consumable** manufacturer.

TLV® (*Threshold Limit Value*) and **OSHA** permissible **exposure limits** (*PEL*) for the **substances** in **welding fume** specify the **amount** of a **substance** in your **breathing air** to which **welding operators** can be **exposed** every day they **work** over the **course** of their **career.** Welding operators **should wear** an approved **respirator** unless **exposure assessments** are below **applicable exposure** limits. An industrial **hygienist** takes an **air sample** in the worker's **breathing** zone to **determine** whether a **worker's exposure** is **below** the exposure **limits.**

If the **air** in your **breathing zone** is not clear, or if **breathing** is **uncomfortable,** check to be **sure** the **ventilation** equipment is **working** and **report concerns** to a **supervisor** so your exposure to **substances** in the **welding fume** can be checked. To prevent **exposure** from **coatings** such as paint, **galvanizing,** or **metal platings** on base **metals,** clean the base **metal** before **beginning** to **weld.** See a **doctor** if **symptoms** from **overexposure** persist.

— Fire and explosions

The **welding arc** creates **extreme temperatures** and may **pose** a **significant fire** and explosions **hazard** if safe **practices** are not **followed.** While the **welding arc** may reach **temperatures** of **10,000 degrees** Fahrenheit, the **real** danger is **not** from the **arc** itself, but the **heat,** sparks and **spatter created** by the **arc.** This spatter **can reach** up to **35 feet** away **from** the **welding space.**

To **prevent fires,** before **beginning** to weld, **inspect** the **work area** for any **flammable materials** and **remove** them from the area. **Flammable materials** are **comprised** of three **categories:** liquid, such as **gasoline,** oil and **paint;** solid, such as **wood,** cardboard and **paper;** gas, including **acetylene,** propane and **hydrogen.**

Know **where** the **fire alarms** and **extinguishers** are located, and check the **extinguisher's gauge** to **make sure** it is **full.** If an **extinguisher** is **not available,** be sure to **have access** to **fire hoses,** sand **buckets** or other **equipment** that douses **fire.** And know the **location** of the **nearest fire exit.**

If **welding** within **35 feet** of **flammable materials,** have a **fire watcher** nearby to **keep track** of sparks, and **remain** in the **work area** for at least **30 minutes** after finishing **welding** to be sure **there are no** smoldering **fires.** Put a **fire-resistant** material, such as a **piece** of **sheet metal** or **fire-resistant** blanket, over any **flammable materials** within the work **area,** if you **can't remove** them.

In an **elevated location,** make sure no **flammable materials** are **beneath** you, and **watch out** for other **workers** below you in order to **prevent dropping sparks** or **spatter** on them. Even **high concentrations** of **fine dust particles** may cause **explosions** or flash fires.

If a fire starts, don't panic – and call the fire department immediately.