



► **MJS SAFETY TRAINING ANNOUNCEMENT**

MJS SAFETY LLC is proud to announce the addition of NCCER and O.Q.S.G. to our OQ Services. **MJS SAFETY LLC** is an "Authorized Assessment Center" for Proctoring Final Assessments and completing Performance Evaluations for O.Q.S.G. and NCCER – as well as other OQ disciplines such as MEA-EnergyU, Veriforce & EnergyWorldNet. [call to schedule](#) [read more...](#)

► **Schedule of classes Mar 2020:** • *TRAINING CENTER - 1760 BROAD ST, UNIT H, MILLIKEN, CO 80543* • [read more...](#)

OSHA / CONSTRUCTION NEWS SUMMARY

► **OSHA at 50**

50 Years of Workplace Safety and Health
President Nixon signs the Occupational Safety and Health Act on December 29, 1970. [read more...](#)

► **Contractors That Don't Comply Face Jail Time**

Once again **OSHA** is focusing on **trenching jobsites** with the intent of ensuring that everyone in and around **trenches** are protected from **cave-ins**. [read more...](#)



► **National Emphasis Program for Silica**

On February 5, 2020, the **Occupational Safety and Health Administration (OSHA)** announced a revised **National Emphasis Program (NEP) for Respirable Crystalline Silica** to identify and reduce or eliminate the dangerous health effects from occupational exposure to Respirable Crystalline Silica (RCS). [read more...](#)



► **Join the National Safety Stand-Down To Prevent Falls in Construction**

MAY 4-8, 2020
Fatalities caused by falls from elevation continue to be a leading cause of death for construction employees, accounting for 320 of the 1,008 construction fatalities recorded in 2018. [read more...](#)

► **Questions about Coronavirus?** Here's what OSHA has to say... [read more...](#)

► **U.S. Department of Labor Publishes Amendments and Technical Corrections to OSHA Standards**

The U.S. Department of Labor's **Occupational Safety and Health Administration** recently published **technical corrections and amendments** to 27 **OSHA** standards and regulations. [read more...](#)

► **ANNOUNCEMENT — OSHA Form 300A Data**

March 2, 2020, is the deadline for electronically reporting your OSHA Form 300A data for calendar year 2019. [read more...](#)

TRANSPORTATION NEWS SUMMARY

► **FMCSA Drug and Alcohol Clearinghouse Detects Nearly 8,000 Violations Since Jan. 6**

Nearly 8,000 substance abuse violations have been detected and identified by the **Federal Motor Carrier Safety Administration's Drug and Alcohol Clearinghouse** since it went live Jan. 6, the agency announced Feb. 21. [read more...](#)



▶ **DOT Issues Compliance Notice Cautioning Truck Drivers About CBD Products**

The **Department of Transportation** has issued a compliance notice warning truck drivers and other safety-sensitive transportation workers about the potential mislabeling of hemp-derived products that could contain **illegal levels of marijuana** that might test positive in a **DOT drug test**. [read more...](#)



...more on the clearinghouse

▶ **CVSA Details Roadside Drug and Alcohol Clearinghouse Checks**

CVSA details drug/alcohol Clearinghouse use at roadside

The **CVSA** updated 2020 North American Standard Out-of-Service Criteria is now available. [read more...](#)

▶ **CONE ZONE SAFETY**



Every year, **CDOT** embarks on hundreds of construction projects across the state, and that doesn't even include the numerous maintenance activities they conduct every day to keep our highways safe. [read more...](#)

▶ **COLORADO MOVE OVER LAW**

- ▶ **Includes all Law Enforcement, Emergency Vehicles, First Responders and Tow Trucks**
- ▶ **Slow Down and Change Lanes Whenever Possible to Give Them Room** [read more...](#)

▶ **International Roadcheck Set for May 5-7 with Emphasis on Driver Requirements**

International Roadcheck is a high-volume, high-visibility three-day enforcement initiative that highlights the importance of commercial motor vehicle safety through roadside inspections. [read more...](#)



▶ **Drivers Who Fail a Drug Test Could Go Months Before Getting Noticed in FMCSA Database**

Some of the **8,000 drivers** who've failed a drug test since a **federal database** began gathering such records **Jan. 6** could remain **behind the wheel** for months, say those familiar with the **system**. [read more...](#)



▶ **In Defense of Truckers? FMCSA Interim Boss Jim Mullen Says He's Committed to Hours of Service Reforms**

Speaking to the gathering of the **Specialized Carriers & Rigging Association** ...Jim Mullen made it clear he believed the flawed rigidity of the current **hours of service regulations** needs modification to benefit drivers. [read more...](#)

▶ **Progress Continues on ELD Enforcement, Proposed HOS Changes**

Enforcement of the **federal electronic logging device mandate** is progressing, and regulators are working to finalize a proposal to add flexibility to **driver hours-of-service rules**, government and industry officials said. [read more...](#)



MSHA NEWS SUMMARY

▶ **MSHA Unveils New Unified Inspection Handbook**

HERE IS A LOOK AT THE DIFFERENCES M/NM OPERATORS CAN EXPECT.

Back in November, **MSHA** head David Zatezalo indicated that **MSHA's** initiative to "blur the lines" between coal and **M/NM enforcement** had ended. [read more...](#)



▶ **U.S. Department of Labor Determines No U.S. Mining Operations Met Pattern of Violations Criteria for 5th Consecutive Year**

For the **fifth consecutive year**, none of the nation's more than 13,000 mining operations met the criteria for a **Pattern of Violations (POV)**, the **U.S. Department of Labor's MSHA** announced recently. [read more...](#)

MONTHLY SAFETY & HEALTH TIP NEWS SUMMARY

▶ **Invisible risks of welding**

Welding fumes inhaled through the years may cause serious medical complications. [read more...](#)



MJS SAFETY TRAINING ANNOUNCEMENT

MJS SAFETY LLC is proud to announce the addition of NCCER and O.Q.S.G. 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" Safety Resource in 2020

"SAFETY STARTS WITH YOU"

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
~OSHA 30 Hour General Industry
~NUCA Confined Space
~Hydrogen Sulfide [H2S] - Awareness
~Respirator: Medical Evaluation & Fit Testing
~Hazard Communication - GHS Training
~Teens & Trucks Safety
~1st Aid/CPR Course- Medic 1st Aid
~HAZWOPER 8, 24 & 40 Hour
~PEC'S Intro to Pipeline
~Confined Space Rescuer Training
~PEC Core Compliance
~OSHA 10 Hour Construction
~OSHA 30 Hour Construction
~NUCA Competent Person for Excavation & Trenching
~Hands-on Fire Extinguisher training
~DOT Hazmat Training
~MSHA Sand & Gravel Training [Part 46 only]
~Fall Protection for the Competent Person
~Defensive Driving Safety for large and small vehicles
~Instructor Development for Medic 1st Aid/CPR
~Bloodborne Pathogens Compliance Training
~Respiratory Protection Training

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

Schedule of classes March 2020: TRAINING CENTER - 1760 BROAD ST, UNIT H, MILLIKEN, CO 80543

- PEC Safeland Basic Orientation: March 10, 20; 8 - 4:30
• DOT Hazardous Materials Training: March 19

[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
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.

Online courses provide a convenient way for EMPLOYERS & EMPLOYEES to complete MANDATED, REQUIRED or HIGHLY RECOMMENDED training in today's industry

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SOURCES FOR THIS ISSUE INCLUDE: OSHA FMCSA MSHA Rock Products Utility Contractor Overdrive Todd Dills CCJ ISHN NUCA-George Kennedy DOL CVSA TTEExpress NIOSH The WELDER - Michael Ladd, CIH, CSP CDOT MoverOverLaws.org CPWR



OSHA / CONSTRUCTION

OSHA at 50

50 Years of Workplace Safety and Health

President Nixon signs the Occupational Safety and Health Act on December 29, 1970.

In its first half century, OSHA has helped transform America's workplaces in ways that have significantly reduced workplace fatalities, injuries, and illnesses. Learn more about the agency's five decades of progress and its efforts to continue fulfilling the promise of the Occupational Safety and Health Act.

1970s

Established by the Occupational Safety and Health Act of 1970, OSHA opens its doors on April 28, 1971. During its initial decade, OSHA issued the first standards for asbestos, lead, carcinogens, and cotton dust. The OSHA Training Institute, safety and health training grants, the On-Site Consultation Program, State Plans, and whistleblower protections for workplace safety are also established.

2000s

Dedicated OSHA staff worked beside their federal, state, and local partners to protect the safety and health of the recovery workers after the unprecedented challenges America's workers faced following the 9/11 terrorist attacks and Hurricane Katrina. Workplace safety continues to improve through new standards to protect construction workers in steel erection and prevent exposure to hexavalent chromium.

1980s

In a landmark decision, the U.S. Supreme Court affirms that workers have the right to refuse unsafe tasks. OSHA issues standards to give workers the right to know which chemicals they may be exposed to and require employers to provide worker medical and exposure records. The 1980s also see the creation of the Voluntary Protection Programs, new standards on safety testing and certification of workplace equipment, and important worker protections for combustible grain dust, trenching, noise, and hazardous energy.

1990s

OSHA issues the Process Safety Management standard and provides new and stronger protections for workers from falls, bloodborne pathogens, toxic substances, and working in confined spaces, longshoring and marine terminals, and laboratories. Workers begin to receive safety and health training through the first OSHA Education Centers, and the agency expands collaboration with employers through its Strategic Partnership Program.

2010s

OSHA helps protect workers performing response and cleanup activities in the aftermath of the catastrophic Deepwater Horizon explosion and oil spill from hazards such as inhaling dangerous levels of chemicals. The agency issues standards for silica dust, cranes, confined spaces, and the classification and labeling of work-related chemicals. To address the number one cause of worker fatalities in the construction industry, OSHA launches the fall prevention campaign.

Moving Forward

So much has been accomplished in the 50 years since OSHA was created. Workplace fatalities have reduced dramatically and the worker injury rate has also decreased significantly. Even with these dramatic improvements to workplace safety over the last five decades, OSHA's mission is as important as ever. Please join OSHA in making a renewed commitment to keeping workers safe and healthy - *it's every worker's right.*

Contractors That Don't Comply Face Jail Time

Source: George Kennedy, Vice President of Safety NUCA — Certified Safety Professional

Once again **OSHA** is focusing on **trenching jobsites** with the **intent** of ensuring that everyone in and around **trenches** are protected from **cave-ins**. Contractors must **safeguard workers** and commit to **protecting** them from **cave-ins** by properly **shoring** and **sloping** trench walls or by using **shields** (*trench boxes*) to guard from **trench walls** that could **collapse** unexpectedly.

There's **no time** for a co-worker or **equipment operator** to tell someone to get out of the **trench** once a cave in **starts**. By the time someone **yells** the **words**, another unfortunate worker is **buried**. It is a lucky individual who **has time** to jump **out of the way** but, more often than not, they **don't even** see it coming. Why **would any** contractor **risk** a worker's life to save a **little time** and a few dollars by **not installing** a protective **system**?

Failure to Protect Employees Could Lead to Criminal Charges

First and foremost, we **must protect** our valuable **employees** so they can go home **unharm**ed to their families and friends every day. **Second**, we need to ensure that our **contractors** and employers are **not subject** to expensive **OSHA** penalties, **lawsuits**, the cost of legal **defense**, and now, **criminal penalties**. Yes, **criminal penalties** and **jail time**.

A drain contractor in Boston has just been **convicted** for two counts of **manslaughter**. He was **sentenced** to two years in jail and **three years** of probation for **failing to provide** trench protection for workers. His **company** is now out of **business** and he will **never be allowed** to be an **excavation contractor** again. His employees were **working** in an unprotected **14-ft deep trench** when a **cave-in** occurred and **buried two** of them up to their waists. When the **cave-in occurred** it also caused a **fire hydrant** to collapse, causing a **torrent of water** to quickly fill the **trench**, drowning them **before anybody** could help.

During the trial, the **contractor's lawyers** argued that there was **no proof** that the lack of a **trench box** caused the **hydrant** to collapse and that the **city is responsible** for the stability of **hydrants**. Had a trench box been in place, the **workers would not** have been **trapped** and could have **escaped** the box before it filled with water. **Unfortunately**, the company **did not follow** the **excavation standard**. **OSHA** reported that the **company** had been **cited twice** in the **past 10 years** for trench violations and was required to **provide trench safety training** to **workers**. The company claimed workers **were trained** but it appears the **documentation** was falsified following the **accident**.

Sadly, **many people** will be affected by this **incident**, especially the **families** of the deceased. The company's **other employees** had to find **new employment**. The owner's life is **now destroyed** and his family will **also be affected**.

All of this was because the **choice was made** to save a **few bucks** in lieu of **following** the **standard**.

These types of **situations** happen **too often**. Some people believe it **can't happen** to them. Whether the **decision is made** out of **ignorance** or



to save **time** and/or **money**, it is wrong and **illegal** to allow workers to enter into an **unprotected trench** that is more than **4 or 5 ft deep**.

OSHA's regional administrator, Galen Blanton said, "The **deaths** of these **two men** could have **been prevented**. Their employer, which **previously** had been cited by **OSHA** for the same **hazardous conditions** in addition to **other violations**, knew what safeguards were **needed** to protect its **employees** in a **trench** but choose to ignore that **responsibility**."

The **OSHA** standard for **excavations** and trenches are **explicit** and **relatively easy** to comply with. No worker, **regardless** of his/her job, should be **exposed** to the **dangers posed** by an unprotected **trench** even if only for a **single minute**. Failure to protect your workers from a **cave-in** is a **crime**. **OSHA** is making it **very clear** that these crimes will be **prosecuted**. Many District Attorneys throughout the **country** are also **adapting** this type of **policy**. I suspect we are **going to hear** more about **contractors** facing **criminal charges** when employees are **killed** by cave-ins.

When an **accident like this** happens, contractors will **face stiff** penalties, even if the contractor is **not criminally charged**. The company will have to **fork out** a **lot of money** to pay **OSHA penalties** and for their **legal defense**. Ensuring that this doesn't happen is an **investment** in your **workers** and your **company**.

Are you **ready to adopt** the concept of **100% trench protection** at all your **jobsites** that involve **excavation work**? It can be accomplished. **Many companies** within **NUCA** have **already adopted** this concept. Under **no circumstances** do they permit **any worker** to enter into an **unprotected trench**, even for a moment.

Many already know they can choose **between different** methods and **different types** of protective systems. Kennedy calls them the **3 Ss** of **trench safety**: **Shoring, Shielding, Sloping**. Companies can **buy** or rent **shoring** and **shields**. If space permits, you can **always slope** the **trench wall**.

Other Trenching Hazard to Consider

Kennedy says, "I **don't want** you to think that **cave-ins** are the only cause of **trench-related accidents** and fatalities, so keep in mind that there are other **safety concerns**. According to **OSHA** you also **need** to be addressing **struck-by hazards** related to handling materials, **equipment**, and vehicles. **Struck-by accidents** are the **second-leading cause** of accidents on **trenching jobsites**. This is an area where **workers need training** about the hazards and how to **avoid them**."

In addition, you should **pay close attention** to confined **space entry operations**, work zone hazards, **fall hazards**, overhead power lines and **underground utilities**, and the use of **personal protective equipment**. It is a **never-ending battle**, but accidents **can be prevented**. Set a goal for **zero accidents** this year. The old saying goes, "If you can **conceive it** and you **believe it**, you can **achieve it**."

You can **help** by **promoting** the concept of using **TRENCH PROTECTION** in your communities, at your **chapter meetings**, with your **subcontractors**, and your **contractor buddies**. Kennedy says, "Ah heck, **share it** with your **competitors too**, because you could **save the life** of a **fellow construction worker**. We're all in this **industry together**."

National Emphasis Program for Silica

On February 5, 2020, the **Occupational Safety and Health Administration (OSHA)** announced a revised [National Emphasis Program \(NEP\) for Respirable Crystalline Silica](#) to **identify** and **reduce** or **eliminate** the dangerous **health effects** from **occupational exposure** to **Respirable Crystalline Silica (RCS)**. Through this **Silica NEP**, **OSHA** will target **workplaces** with occupational exposures to **Respirable Crystalline Silica** that are causing (*or are capable of causing*) occupational illnesses. **Inspections** under this program are **set to begin** on **May 5, 2020** after a **90 day period** of outreach.

Inhalation of **elevated levels** of **Respirable Crystalline Silica** is a **health hazard** that can cause **diseases** including silicosis, an **incurable lung disease**, and lung cancer, **chronic obstructive pulmonary disease (COPD)**, and **kidney disease**. **Crystalline Silica** is a **common mineral** found in many naturally **occurring materials** and industrial **products** and can be **generated** by operations like **cutting**, sawing, **grinding**, drilling and crushing **stone**, rock, concrete, **brick**, block, and **mortar** and when **abrasive blasting** with sand. **Exposure** can also occur **during manufacture** of products such as **glass**, pottery, **ceramics**, bricks, concrete, **countertops** and artificial stone and as a **result** of foundry and **hydraulic fracking** operations.

The **NEP targets** industries **expected** to have the **highest exposures** to **RCS** and focuses on **enforcement** of the new **RCS standards**, *29 CFR 1910.1053* (General Industry) and *29 CFR 1926.1153* (Construction). The **Silica NEP** combines **enforcement** and outreach efforts to **raise awareness** among **employers**, workers, and **safety** and **health professionals** of the **serious health effects** associated with **occupational exposure** to **Respirable Crystalline Silica**.

To **prepare** for an **inspection**, and to **protect employees** from hazards associated with **RCS exposure**, it is important that **employers have** an effective **safety** and **health management system** in place. Please **be aware** that **employers** in these industries are **eligible** for **assistance** from one of the listed [On-Site OSHA Consultation Programs](#). These **programs** are operated **separately** from **OSHA's** enforcement **program**. The service is **free** and **confidential**, and there are **no citations** or **penalties**. Designed primarily for **smaller employers**, the **consultation program** can help **identify hazards** in workplaces and **find effective** and **economical solutions** for eliminating or **controlling them**. A consultant from this program can **assist employers** in developing and **implementing effective safety** and **health management systems** for their workplaces.

Other **useful information** can be **found** in the [Silica Information Resource List](#). **OSHA** will update & **add to its online resources** when **new information** becomes **available**. For the **most up to date information**, view the [OSHA website](#). **OSHA's** focus is to **provide information** on the **National Emphasis Program for Silica** to their **stakeholders** and the **Public**.

Additionally, **employers** can **find assistance** in completing a **job hazard analysis** for **silica** as well as **creating** the written **silica exposure control** plan required by the **OSHA standard** for **construction** through the [Center for Construction Research and Training \(CPWR\)](#).

Please assist in **protecting affected workers** by sharing the **information** about the **Silica NEP** with your **members**.

If you are **interested** in additional **silica outreach** such as a **presentation** or **Q&A session** with your **staff** or **membership**, or have **any questions** about **OSHA's NEP** for **Respirable Crystalline Silica**, please **contact** John Olaechea, CIH, CSP, **Compliance Assistance Specialist OSHA** – Region VIII at 720-264-6586 or olaechea.john@dol.gov.

Join the

National Safety **Stand-Down** To Prevent Falls in Construction

MAY 4-8, 2020



Fatalities **caused by falls** from **elevation** continue to be a **leading cause** of death for **construction employees**, accounting for **320** of the **1,008 construction fatalities** recorded in **2018 (BLS data)**. Those **Deaths Were Preventable**. The **National Safety Stand-Down** raises fall hazard awareness across the country in an **effort to stop fall fatalities and injuries**.

What is a Safety Stand-Down?

A **Safety Stand-Down** is a **voluntary event** for employers to **talk directly** to employees **about safety**. Any **workplace** can hold a **Stand-Down** by taking a break to **focus on "Fall Hazards"** and **reinforcing** the importance of **"Fall Prevention"**. Employers of companies **not exposed to fall hazards**, can also use this **opportunity** to have a **conversation** with employees about the **other job hazards** they face, **protective methods**, and the company's safety **policies and goals**. It can also be an **opportunity** for employees to talk to **management** about fall and other **job hazards** they see.

Who Can Participate?

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

Follow this [link](#) for **more information** and **watch** for a **Safety Stand-Down** reminder in next months' newsletter.

Questions about Coronavirus?

Here's what OSHA has to [say](#)....

Including: [Existing OSHA standards](#) that apply to protecting workers from the novel coronavirus, COVID-19.

U.S. Department of Labor Publishes Amendments and Technical Corrections to OSHA Standards

The U.S. Department of Labor's **Occupational Safety and Health Administration (OSHA)** recently published [technical corrections and amendments](#) to 27 **OSHA standards and regulations**. This **administrative rulemaking** corrects minor misprints, **omissions**, outdated **references**, and tabular and **graphic inaccuracies**. The revisions apply to **several industry sectors**, including general industry, **construction**, shipyard employment and **longshoring**. Some revisions may **reduce employer costs**, and none **expand employer obligations** or **impose new costs**.

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 **help ensure** these **conditions** for America's working **men and women** by **setting and enforcing standards**, and providing training, **education** and assistance.

The **mission** of the **Department of Labor** is to foster, **promote**, and develop the **welfare** of the **wage earners**, job seekers, and **retirees** of the **United States**; improve **working conditions**; advance **opportunities** for **profitable employment**; and assure **work-related benefits and rights**.

ANNOUNCEMENT

OSHA Form 300A Data

March 2, 2020, is the deadline for electronically reporting your OSHA Form 300A data for calendar year 2019. Collection began January 2, 2020.

The collection of CY 2019 data and beyond will include the collection of establishments' Employer Identification Numbers (EIN).

If you submit your data using a csv file or API, you can view the new layout by selecting the "[How](#)" tab above on the right side of the [linked page](#).

Remember, not all establishments need to submit their OSHA 300A Data. To review which establishments need to provide their data, [click here](#).

Follow this [link](#) for additional information.



FMCSA Drug and Alcohol Clearinghouse Detects Nearly 8,000 Violations Since Jan. 6

Nearly 8,000 substance abuse violations have been detected and identified by the Federal Motor Carrier Safety Administration's Drug and Alcohol Clearinghouse since it went live Jan. 6, the agency announced Feb. 21.



The Clearinghouse, a database containing information on commercial driver license holders' drug and alcohol violations, first went live last month but displayed error messages and experienced sluggish loading times. Although minor glitches remain on the website, users say it's performing its primary objectives.

The Clearinghouse so far has more than 650,000 registrants, the agency said.

The drug and alcohol violations recorded in the database include pre-employment tests, random tests, reasonable suspicion tests, post-crash tests and refusals to submit to a test.

Carriers and their third-party administrators, state driver licensing agencies, law enforcement officials, medical review officers and substance abuse professionals are authorized to use the Clearinghouse to check for a CDL holder's violations.

CDL drivers who register for the Clearinghouse also can check their own records.

The Clearinghouse ends a longtime loophole that allowed drivers with drug or alcohol test violations with one motor carrier to job-hop to another carrier who may not have knowledge of the driver's previous positive test results, said Dan Horvath, vice president of safety policy for American Trucking Associations.

"The Clearinghouse is doing what it's intended to do," Horvath said. "Beyond that, I think the numbers also shed light on how many drivers may have fallen under the radar in the past. Kudos to the agency for putting this in place."

The Clearinghouse contains only violations that occurred on or after Jan. 6, 2020. If a driver's violation occurred prior to Jan. 6, and was in the return-to-duty process when the Clearinghouse was implemented, the violation and any related return-to-duty activity will not be entered into the Clearinghouse.

"We've seen encouraging results from the Drug and Alcohol Clearinghouse, but there's still work to do to ensure we identify more drivers who should not be behind the wheel." FMCSA acting Administrator Jim Mullen said in a statement. "The Clearinghouse is a positive step, and the agency continues to work closely with industry, law enforcement and our state partners to ensure its implementation is effective."

The Clearinghouse rule, years in the making, requires drivers to register and consent to carriers checking their record for drug and alcohol violations. Employers are required to check the Clearinghouse as part of pre-employment driver investigations and screen each of their employed CDL drivers at least once a year.

The agency has extended the compliance date for the requirement established by the Clearinghouse final rule that states query the Clearinghouse before completing certain CDL transactions. The state driver license agencies' mandatory compliance with this requirement has been delayed until Jan. 6, 2023. However, state agencies still have the option to voluntarily query the Clearinghouse.

DOT Issues Compliance Notice Cautioning Truck Drivers About CBD Products

The Department of Transportation has issued a compliance notice warning truck drivers and other safety-sensitive transportation workers about the potential mislabeling of hemp-derived products that could contain illegal levels of marijuana that might test positive in a DOT drug test.



"We have had inquiries about whether the Department of Transportation-regulated safety-sensitive employees can use CBD products," the Feb. 18 notice said. "Safety-sensitive employees who are subject to drug testing specified under 49 CFR part 40 include: pilots, school bus drivers, truck drivers, train engineers, transit vehicle operators, aircraft maintenance personnel, fire-armed transit security personnel, ship captains and pipeline emergency response personnel, among others."

Industrial hemp and CBD, or "cannabidiol," products are legal provided they contain a concentration of up to 0.3% tetrahydrocannabinol or THC, the intoxicating substance in marijuana. Higher concentrations of marijuana remain an illegal Schedule I drug under the Controlled Substances Act, DOT said.

The notice said it is important for employees to know that DOT requires testing for marijuana but not CBD.

However, DOT officials said the Food and Drug Administration does not currently certify the levels of THC in CBD products, so there is no federal oversight to ensure that the labels are accurate.

For truck drivers, the DOT drug-and-alcohol testing regulation does not authorize the use of Schedule 1 drugs, including marijuana, for any reason, and CBD use is not a legitimate medical explanation for laboratory-confirmed marijuana positive result.

"Therefore, medical review officers will verify a drug test confirmed at the appropriate cutoffs as positive, even if an employee claims they only used a CBD product," DOT said.

FDA has cautioned the public that consumers should be aware when purchasing and using any CBD products, DOT said.

"The FDA has stated, 'It is currently illegal to market CBD by adding it to a food or labeling it as a dietary supplement,' " the notice said. "Also, the FDA has issued several warning letters to companies because their products contained more CBD than indicated on the product label."

...more on the clearinghouse

CVSA Details Roadside Drug and Alcohol Clearinghouse Checks

CVSA details drug/alcohol Clearinghouse use at roadside

The [Commercial Vehicle Safety Alliance's](#) updated 2020 North American Standard Out-of-Service Criteria is now available. The new criteria go into effect on April 1, 2020. The criteria identify critical vehicle inspection items, and detail just what can be cause to prohibit a motor carrier or driver from operating a commercial motor vehicle for a specified period of time, or until the condition is corrected.

The 2020 version replaces and supersedes all previous versions, [CVSA](#) says, and the relatively few changes to this year's edition of the manual are [detailed in this document](#) at the [CVSA](#) website. Included among the changes, for instance, are removal of defective sway bars from out of service criteria, removal of references to now disallowed Automatic Onboard Recording Devices from certain OOS criteria, and more.

Perhaps the most significant change has to do with additional out-of-service criteria related to drivers who fail a drug test reported to the [Federal Motor Carrier Safety Administration's](#) new [Drug and Alcohol Clearinghouse](#) database and who are required to complete return-to-duty procedures to get clearance to haul again.

As per a new Inspection Bulletin, such drivers' eligibility information is accessible via law enforcement lookup tools (including [FMCSA's Query Central](#) and the [CDLIS database](#)), and drivers as of April 1 will be placed out of service if found to be operating before cleared for duty.

The Inspection Bulletin provides directions to enforcement personnel on verifying a driver's status based on data from the [Federal Motor Carrier Safety Administration's](#) Commercial Driver's License [Drug and Alcohol Clearinghouse](#). This bulletin is for enforcement personnel who stop drivers with a commercial driver's license (*CDL*) or a commercial learner's permit (*CLP*) for a driver/vehicle examination (*roadside inspection*). It only applies to CDL or CLP holders.

Read the [Inspection Bulletin](#) —

Roadside Examination of Drug and Alcohol Clearinghouse Status — Created: Feb. 02, 2020



CONE ZONE SAFETY

Every year, CDOT embarks on hundreds of construction projects across the state, and that doesn't even include the numerous maintenance activities they conduct every day to keep our highways safe.

With every construction zone comes equipment, workers, and daily changes in the road and alignment you may be traveling.

As a result, it's critical you do your part to make the cone zones safe. Lower speed limits, flaggers and police enforcement are used to help keep work zones safe, but motorists still must drive responsibly to keep themselves and our workers safe.

Work Zone Facts – Safety in Perspective

- Eighty-five percent of those killed in work zones are drivers and passengers.
- About 600 people die and more than 37,000 people are injured in work zone crashes nationwide.
- On average, in a typical five-day work week, seven motorists and one highway worker are killed nationwide.

More important [Safe Driving Tips](#) for cone zones

COLORADO MOVE OVER LAW

- ▶ Includes all Law Enforcement, Emergency Vehicles, First Responders and Tow Trucks
- ▶ Slow Down and Change Lanes Whenever Possible to Give Them Room

You are required to yield to emergency vehicles which are stopped and displaying its red and/or blue lights. The [law](#) requires drivers to reduce their speeds and change lanes to the left when on a four or more lane road or highway, (if the emergency vehicle is on the right and vise-versa) and to reduce speed and move as far left as reasonably possible when the road is 2 lanes.

Penalties for Failing to comply with the "Move Over for Cody Act" C.R.S. 42-4-705

- If a driver commits careless driving around a stopped emergency vehicle or towing carrier, the driver commits a class 2 misdemeanor traffic offense. The penalty for this offense is 10 to 90 days in jail, a \$150 to \$300 fine, or both. 4 Points.
- If the driver causes serious bodily injury or death to another person, the driver commits a class 1 misdemeanor traffic offense, the penalty for which is 10 days to 12 months in jail, a \$300 to \$1,000 fine, or both. If injury, the penalty is 4 points. If death occurs, the penalty is 12 points.

Colorado state law also requires all drivers to yield to emergency vehicles displaying red/blue light and/or siren. When approached by an emergency vehicle, the law requires you to pull as far right as reasonably possible and stop. This applies for emergency vehicles approaching in any direction.

Penalties for Failing to Clear the left lane for Emergency Vehicles C.R.S. 42-4-705 (1) – a Class A Non-Criminal Traffic Infraction

- Fine \$15.00 – \$100.00 plus surcharges and court costs. 4 Points.

International Roadcheck Set for May 5-7 with Emphasis on Driver Requirements

The **Commercial Vehicle Safety Alliance's (CVSA) International Roadcheck** will take place **May 5-7**. **International**



Roadcheck is a high-volume, high-visibility three-day enforcement initiative that highlights the importance of commercial motor vehicle safety through roadside inspections. Over that 72-hour period, commercial motor vehicle inspectors in jurisdictions throughout North America will conduct inspections on commercial motor vehicles and drivers.

This year's focus is on the **driver requirements** category of a roadside inspection. "With last year's federal electronic logging device full-compliance mandate in the U.S., the **Alliance** decided that this year's **International Roadcheck** would be the perfect opportunity to revisit all aspects of roadside inspection driver requirements," said **CVSA** President Sgt. John Samis with the Delaware State Police.

The **vehicle inspection** includes checking critical vehicle inspection items such as: **brake systems, cargo securement, coupling devices, driveline/driveshaft components, driver's seat (missing), exhaust systems, frames, fuel systems, lighting devices, steering mechanisms, suspensions, tires, van and open-top trailer bodies, wheels, rims and hubs, and windshield wipers.**

Additional items for buses, motorcoaches, passenger vans or other passenger-carrying vehicles include: emergency exits, electrical cables and systems in engine and battery compartments, and temporary and aisle seating.

If no critical vehicle inspection item violations are found during a **Level I or Level V Inspection**, a **CVSA decal** will be applied to the vehicle, indicating that the vehicle successfully passed a decal-eligible inspection conducted by a **CVSA - certified inspector**. However, if a required rear impact guard is inspected during a **Level I or Level V Inspection** and violations are present, a **CVSA decal** will not be issued.

If an inspector does identify critical vehicle inspection item violations, he or she may render the vehicle out of service if the condition meets the **North American Standard Out-of-Service Criteria**. This means the vehicle cannot be operated until the vehicle violation(s) are corrected. A driver can also be placed out of service for driver credential-related issues or driver conditions, such as fatigue or impairment.

International Roadcheck is a **CVSA** program with participation by **FMCSA**, the **Canadian Council of Motor Transport Administrators, Transport Canada** and the **Secretaría de Comunicaciones y Transportes (Ministry of Communications and Transportation)** of **Mexico**.

[Download the 2020 International Roadcheck driver requirements focus area flyer.](#)

Drivers Who Fail a Drug Test Could Go Months Before Getting Noticed in FMCSA Database

Some of the **8,000 drivers** who've failed a drug test since a **federal database** began gathering such records **Jan. 6** could remain **behind the wheel** for months, say those **familiar with the system**.



Commercial drivers who applied to drive for another **fleet** and were **turned away** for failing a **pre-employment drug test** in **recent weeks** could still be **driving today** for the fleet where **they're already employed**. Such drivers could **remain there** until their **fleet runs the required annual query** of the **Federal Motor Carrier Safety Administration's** new **CDL Drug and Alcohol Clearinghouse**.

"There are **situations** where things could **fall through the cracks**," says Tom Fulmer, vice president of **National Drug Screening**, a national provider of **DOT drug tests**.

The **database** of drivers is meant to **curb job-hopping drivers** who've failed a **drug test** from holding or gaining employment. **DOT** said recently that **more than 8,000 records** have been added to the **database** since **Jan. 6**, the date that the **Clearinghouse rule** took effect. That means that more than **8,000 CDL holders** had failed or **refused** a drug test (*or committed an alcohol violation*) as part of a **pre-employment screening, random drug test or post-accident test** since **Jan. 6**.

Those who have **failed a random drug test** or a **post-accident test** have likely been **sidelined**, but "**it's not impossible**" for those who failed a **pre-employment drug test** to have **missed detection**, says Kathryn Russo, an advisor for **drug testing law** at the law firm Jackson Lewis P.C. It's unclear "**how many of those 8,000 that would apply to**," she says.

Fleets are required to **run an annual query** to check for **records** on their drivers. But just **six weeks in**, it's likely the **case** that **many fleets** haven't run their **annual query**. There's no **mechanism** for notifying **fleets** when one of their drivers **fail a drug test** during a **pre-employment test** at another fleet, other than the **annual query**.

By law, drivers are **required** to notify their **fleet** if they fail a **drug test**. "If that doesn't happen, the **only way** their **employer would learn** of it would be through a **query**" to the **Clearinghouse**, says Kathy Close, a compliance expert at J.J. Keller. Like Russo, she says it's unknown **how many** of the **8,000 reported entries** are current drivers who **failed a pre-employment screening** or who failed a **random drug test**.

FMCSA has said that any **driver who fails a drug test** and has **not completed the required return-to-duty procedures** is disqualified from **driving**.

But, says Close, "**it's up to the employer** to learn of it," if a driver doesn't notify their **fleet** they've **failed a drug test** elsewhere.

What's more, this issue **isn't isolated** to the **Clearinghouse's** first year. If a driver **fails a pre-employment drug test** when applying for a **job** in in **February 2021**, for example, and a **fleet doesn't run a query** on their drivers until **December**, that driver **theoretically could retain employment** for **10 months** despite having **failed a DOT-required drug test**.

The **best practice** to prevent this situation, says Close, is for **fleets to ping the Clearinghouse** more often than the **once-annual requirement**.

Queries cost **\$1.25 per query per driver**. If carriers run their **entire fleet monthly**, that's **\$15 a year per driver**. "That's a **small investment**," says Fulmer, to know if **one of your drivers** has **failed a drug test**.

Fulmer and Close **advise carriers** to **update their drug testing policy forms** to ensure that **drivers are informed** that **fleets can query the database** regularly, rather than **once annually**.

In Defense of Truckers? FMCSA Interim Boss Jim Mullen Says He's Committed to Hours of Service Reforms



hour-rule regs, a choice a 20 percent of owner-operators in polling last year on wishes for an **hour revision**, just before the **FMCSA's** proposal to open it up to a 7/3 split was announced.

Speaking to the gathering of the **Specialized Carriers & Rigging Association** recently in Charlotte, N.C., while digging in on the view that the **ELD mandate** is a safety-positive rule, **FMCSA** Acting Administrator Jim Mullen made it clear he believed the flawed rigidity of the current **hours of service regulations** needs modification to benefit drivers.

And he assured the assembled that the **agency** was moving forward with a **final rule** on hours of service that would make those **modifications**.

When asked, after his talk, Mullen said he couldn't speak to the particulars of the next phase of the **hours of service reforms** process yet. **FMCSA** last August, still under the direction of former Administrator Ray Martinez, proposed an **hours overhaul** that would allow drivers to pause their **14-hour clock** for up to three hours to go off-duty, among other changes.

Mullen recently said he couldn't offer details on the stage at which work on the **proposed rule** currently sits, whether still with **FMCSA** or at review stage in the office of **DOT Secretary** Elaine Chao. We'll know it's getting close, at least, when it makes the stage at which the White House **Office of Management and Budget** reviews the rule before publication. Officially, at that stage a **rule's supposed to be** processed over the **course of 90 days**. (*With this and other administrations in recent memory, however, those official deadlines have often enough been ignored.*)

Todd Dills of *Overdrive* said he's inclined to view Mullen's appearance at the **SC&RA symposium** as a positive for many owner-operators' desires when it comes to potential changes, given that association's stance on **split sleeper modifications**. As Todd wrote last fall, the **Specialized Carriers** were among few associations to advocate specifically for opening up **off-duty split opportunities** up to 6/4 and even 5/5, which would come close to reverting hours rules to **pre-14-**

As Mullen put it in his talk, and about as specific as he got there: "We understand **drivers need the flexibility** to be as safe as they can. It's clear the rigid rules **do not work**. We're going to go forward with a final regulation."

Mullen also trumpeted the agency's efforts to promote the **true safety-plus** image of trucking as we know it via public awareness campaigns aimed at promoting safe **four-wheeler practices** around trucks, with assistance from the pros. Such efforts could help stem the tide of so-called "**nuclear verdicts**," he speculated, though the agency has no regulatory jurisdiction of course over the course. Such verdicts in civil litigation have been increasingly sought by ambulance-chasing lawyers from carriers large and small unlucky enough to be involved in most any crash, **whether at fault or not**.

Along the way, too, Mullen **revealed viewpoints** on other trucking subjects, including the **CSA program**, that some owner-operators will, at the least, find familiar, if not always deserving of praise.

Progress Continues on ELD Enforcement, Proposed HOS Changes



Enforcement of the **federal electronic logging device mandate** is progressing, and regulators are working to finalize a proposal to add flexibility to **driver hours-of-service rules**, government and industry officials said.

ELD enforcement data indicates that law enforcement officers are becoming more comfortable with the technology and the **data transfer process**, said Joe DeLorenzo, acting associate administrator for enforcement at the **Federal Motor Carrier Safety Administration**.

He made the comments during a Feb. 17 panel discussion at trucking technology supplier **Omnitracs' Outlook 2020 user conference**.

The **ELD mandate**, which took full effect in December, requires most longhaul truck drivers to record their **HOS information** with ELDs rather than **paper logbooks**.

Violations for exceeding daily and weekly **HOS limits** have dropped to about half of what they were prior to **ELD implementation**, DeLorenzo said.

He also cited an **"interesting curve"** in violations for driver **log falsification**.

"We had a large dip in violations for falsification," he said. "But as officers got comfortable with it, that level of **violations per inspection** for false records is higher than it's ever been before, which means now law enforcement has **figured out** what the tricks are, and how easy it is to find the falsifications."

DeLorenzo said that learning process should continue over the course of the year.

"We need this next **six or 12 months** to really solidify that learning, get everybody used to it, and the more we can get data transfer done, that's better for everybody," he said.

Driver knowledge plays a very important role in making **ELD inspections** go smoothly, added Kerri Wirachowsky, director of the roadside inspection program at the **Commercial Vehicle Safety Alliance**.

"Ensure your drivers are trained on how to use the device," she said.

As trucking companies and law enforcement in the United States continue to adapt to the **ELD rule**, Canada is preparing to implement its own **ELD mandate** in June 2021.

Unlike the United States, which has relied on **ELD vendors** to self-certify their own devices, Canada is requiring all ELDs to be independently certified by third parties, said Mike Millian, president of the **Private Motor Truck Council of Canada**.

But those **third-party certifications** have not yet begun. Millian predicted that this June will be the earliest the industry will see a **certified device** on the market for Canada.

In another departure from the U.S. approach to **ELDs**, Canada's regulation will not include a grandfather provision for **older e-log systems** known as automatic onboard recording devices, or **AOBRDs**.

Over the past two years, the now-expired grandfather period for **AOBRDs** in the United States was a source of confusion at roadside because drivers often did not know if their **e-log devices** were **AOBRDs** or **ELDs**, Wirachowsky said.

"That driver thinks it's an **ELD** whether it is or not," she said.

Meanwhile, **FMCSA** continues to review public comments on its proposal to add flexibility to the **HOS regulation**.

Completing that rule is one of the **agency's top priorities**, DeLorenzo said. However, any changes to **HOS** are a complex matter, he said, likening the process to threading a needle.

"The goal here with this rule, we said from the very beginning, has been to **provide some flexibility** in those rules, and use that flexibility to **improve safety**," he said. "I think we're well on our way to doing that."

DeLorenzo also acknowledged that motor carriers operate in a **different environment** today than they did in 2003 when the 14-hour rule was **established**.

"An awful lot has changed in the industry since 2003," he said. "**Just-in-time delivery** wasn't a thing. Amazon wasn't a thing. Traffic certainly was not what it is now. **Infrastructure** was not what it is now."

MSHA Unveils New Unified Inspection Handbook

HERE IS A LOOK AT THE DIFFERENCES M/NM OPERATORS CAN EXPECT.

Back in November, **MSHA** head David Zatezalo indicated that **MSHA's** initiative to “blur the lines” between coal and **M/NM enforcement** had ended. As an **apparent follow-up**, in late December **MSHA** released a new, **unified M/NM and coal inspection handbook**, and has now started **training** investigators on the **new handbook**.

This **handbook replaces** two previous **handbooks** – the **2016 version of PH19-IV for Coal** and the **2009 version of PH09-IV-1 for M/NM** – creating a **single handbook** for both coal and **M/NM**. Below are some of the **key takeaways for mine operators** as they encounter **MSHA** inspections under this **new handbook**, with a **focus on the differences** M/NM operators can **expect**.

By squeezing **two longer handbooks** into just **58 pages**, the new **handbook pares down, generalizes** or cuts out a lot of **material**.

To create one **inspection handbook for all types** of mines, **MSHA** believed that it needed to **give more** discretion to **inspectors**, noting: “**Not all procedures and requirements** are applicable for **all mine types**. Any deviation from the **procedures outlined** in this handbook should be **based** on the inspector’s **professional judgment**, and discussion with the **inspector’s supervisor**.”

Nonetheless, **apparently recognizing** that there are **significant** differences between coal and **M/NM mines**, the new handbook **retains** features **unique** to coal mines, such as for **coal mine dust** sampling, and also **includes** in its **Appendices** separate **checklists** for mine records and postings for **different** mine types. In **some ways**, the **new handbook** underscores, **perhaps unintentionally**, that “**blurring**” can only **go so far**.



MAJOR CHANGES IN THE NEW HANDBOOK

A. Abandonment of Three-Phased Approach to Regular Inspections

The previous M/NM handbook took a phased approach to regular MSHA inspections, dividing them into “activities done by inspectors prior to arriving at the mine, the physical inspection of the mine, and activities conducted after the inspection is completed.” Each phase also described subparts with specific inspection activities. The new handbook appears to abandon the phased approach, eliminating much of the content on the first and third phases and handling the physical inspection phase much more generally. In fact, the new section on regular inspections no longer even references pre-inspection and post-inspection conferences. Hopefully, that does not mean MSHA – or individual inspectors – will abandon these important practices.

The new handbook also seems to de-emphasize the walkaround rights of miners and operators. It only says that the inspector must notify the operator and miner representatives of the type of inspection and “afford them the opportunity to exercise their rights under Section 103(f) of the Mine Act.” Previously, the M/NM guide spelled out these rights in detail, which helped emphasize their importance. The new handbook adds that an inspection should begin immediately after a limited review of the most recent relevant examination records. Previously, the M/NM handbook stated that the “extended unavailability” of a miners’ or operators’ representative should not delay the inspection, but this language is now gone.

B. Separate Inspection Requirements for Underground and Surface Inspections

While the specifics on inspections are slimmer in the new handbook, it does introduce a new wrinkle – specific and different inspection requirements for underground and surface mines. While the prior M/NM handbook did contain some points that only applied to one type or the other, it did not adopt a structure separating the requirements. It is worth noting that the new handbook specifies that the surface facilities at an underground mine should be inspected as if they were surface mines.

Typically, the differences in inspection requirements appear to focus on items/conditions generally expected to be found exclusively at one type of mine. For instance, surface inspections include requirements for inspecting spoil banks, stockpiles, impoundments/retaining dams, and refuse piles, while underground inspections include air courses, escape facilities in shafts, self-rescue devices, diesel fuel storage systems, ventilations fans and facilities, material haulage facilities, and communication and tracking installations. Ultimately, however, the differences may not be noticeable since both types of inspections require observation of the complete mining cycle for all work areas.

C. Other Differences

While not a complete list, some additional differences that may be of interest include:

- 1. Expanding conflict of interest limits on inspecting a former employer.** *The new handbook adds the additional requirement that at least one year must pass after a mine inspector left employment at a mining company before the inspector could inspect any mines or facilities owned by the company. Previously, the limit only applied to the specific mine where the inspector had worked. This seems like a positive step forward since MSHA personnel inspecting their former employer has posed problems in the past.*

2. Crossing the picket line. *Previously, MSHA inspectors could not cross picket lines at a mine unless instructed to do so by their supervisor. Under the new handbook, inspectors are instructed discuss the purpose of their presence on the property with the individuals on the picket line and then only contact their supervisor if access to the mine is denied or delayed.*

3. What is advance notice of inspections? *The previous M/NM handbook included an entire section outlining the general prohibition on giving advance notice of inspections. The new handbook simply says inspectors should take precautions to not inadvertently disclose their intention to conduct an inspection. Giving advance notice is considered a crime, and MSHA has never settled on what constitutes advance notice. Unfortunately, inspectors will turn to the handbook for guidance and not find much, not even references to MSHA's other guidance on the subject.*

4. Abandoned or barricaded areas. *The previous M/NM handbook contains several pages on how MSHA inspectors should deal with abandoned or barricaded areas of a mine, including allowing them to determine of whether an area is "legitimately" barricaded or abandoned. The new handbook says inspectors have the right to enter any area in performance of their duties, but that they should obtain information from miners and operators on why areas are barricaded and document the reason an area should not or cannot be inspected in their notes. This new provision could create challenges if it emboldens inspectors to insist on entering areas that are unsafe.*

5. Omitting other types of inspections. *The previous handbook included lengthy details and full sections on other types of inspections, including hazard complaint inspections, compliance follow-up inspections, compliance assistance visits, accident investigations, and 103(I) gassy mine inspections. References to and discussions regarding these types of inspections are either significantly shortened or totally absent from the new handbook.*

These are just some of the **highlights**. How will the **new handbook** affect **inspections**, and **how quickly**? Inspectors have been **using** the **old handbook** for a long time. Some **inspectors** may take some time **to catch up** to the changes, while others may **interpret** the **slimmer guidance** as granting them **more freedom**. Some of our biggest **legal cases** started when an **inspector** combined too much **discretion** with **poor choices**.

Operators should take note: If **MSHA** is getting **re-trained** on how to **handle inspections**, so should the **mine managers** and supervisors who accompany **MSHA inspections**. They are the **first line** of defense in **preventing** unjustified enforcement. **Every year**, our Husch Blackwell **MSHA** defense team **provides cost-saving**, in-house training to **mines** around the country. The new **MSHA handbook** is a good **reminder** that now's a **great time** to prepare your **team**.

U.S. Department of Labor Determines No U.S. Mining Operations Met Pattern of Violations Criteria for 5th Consecutive Year

For the **fifth consecutive year**, none of the nation's more than 13,000 mining operations met the criteria for a **Pattern of Violations (POV)**, the **U.S. Department of Labor's Mine Safety and Health Administration (MSHA)** announced recently. The screening period started on September 1, 2018, and ended on August 31, 2019.

The **POV provision** in the **Federal Mine Safety and Health Act of 1977** is one of **MSHA's** toughest enforcement tools. **MSHA** reserves the provision for mines that pose the greatest risk to miners' health and safety, particularly those with chronic violation records.

"The **Mine Safety and Health Administration** remains committed to regular and consistent enforcement of the **Mine Act** – including issuing **Pattern of Violations** notices where appropriate – to fulfill its mission to keep the nation's miners healthy and safe," said **MSHA** Assistant Secretary David G. Zatezalo. "For the **fifth straight year**, no mine met **POV criteria**, evidence that mine operators have become more proactive in eliminating safety and health hazards."

In January 2013, **MSHA** published its **POV rule** to strengthen safety measures in the nation's most hazardous mines. Under the regulation, **MSHA** may consider mitigating circumstances before issuing a **POV**

notice and encourages mine operators to implement a corrective action program if they are approaching **POV status**.

MSHA developed [two online tools](#) to help mine operators monitor compliance: the **POV tool**, which alerts mine operators that they are approaching **POV status** and should take appropriate corrective actions; and the **S&S rate calculator**, which enables mine operators to monitor their "significant and substantial" violations. Between 2011 and 2018, the rate of significant and substantial violations dropped from approximately 32 to 21%, an indicator of safety improvements in mines.

MSHA works to prevent death, illness, and injury from mining and promote safe and healthful workplaces for U.S. miners. **MSHA** carries out the provision of the **Federal Mine Safety and Health Act of 1977 (Mine Act)** as amended by the **Mine Improvement and New Emergency Response (MINER) Act of 2006**. The agency develops and enforces safety and health rules for all U.S. mines regardless of size, number of employees, commodity mined, or method of extraction.

MSHA also provides technical, educational and other types of assistance to mine operators. **MSHA** works cooperatively with industry, labor, and other federal and state agencies to improve safety and health conditions for all miners in the United States.

Invisible risks of welding

Source: The WELDER - Michael Ladd, CIH, CSP - a risk control consultant for CNA



Welding fumes inhaled through the years may cause serious medical complications. Those noises that didn't seem so loud actually were, potentially destroying your ability to hear. The parts that didn't seem so heavy may trigger shoulder problems. The constant kneeling can lead to knee troubles. Seemingly insignificant job-related activities lead to illness in later years.

You can reduce the risk of these ailments by forcing yourself to make a few simple changes to your daily routine.

Avoid gases and fumes

Sometimes you receive specific warning signs after inhaling gases and fumes. If you breathe enough zinc fumes while welding on galvanized metal, you later may experience metal fume fever. Symptoms include night sweats, chills, and stomach pains. Or you may exhibit shortness of breath or headaches after breathing certain fumes.

You might inhale many gases and fumes over the span of your career that do not provide any obvious warnings. Though air testing may determine these fume exposures are within current regulatory occupational limits, those limits are only a guideline to help benchmark the airborne concentration.

They should not be considered an absolute safe level of exposure.

Welding fumes are a combination of various metals. Mild steel is mostly iron, but it also contains manganese, which has potential health effects. Stainless steel also contains iron, as well as nickel and chromium. Each compound may have different health effects.

Protect your hearing

Fumes you breathe actually may harm your hearing. Multiple health studies show a strong correlation between certain chemicals and audio-nerve damage. Breathing high levels of carbon monoxide gas affects how much oxygen gets into the blood. If the oxygen level in the blood supply to auditory nerve cells is lowered, they become stressed, posing a higher risk for damage.

The obvious threat to hearing is the noise welding generates. Noise is a health hazard that many welders ignore. The same people who might wear earplugs or earmuffs when grinding metal will shun that protection when welding, simply because it doesn't seem loud—at least not to the point of being painful. However, welding is loud enough to cause minor nerve cell damage, and minor damage on a daily basis adds up over the years.

Even moderately loud noise, such as that produced by welding, leaves auditory nerve cells affected permanently. Damaged cells do not mend, and new ones don't grow. The long-term result is loss of hearing.

Use your head, not your back

Years of repetitive kneeling or lifting heavy parts can take their toll on the body. Chronically bad backs, knee joints, and shoulders are common ailments among aging welders.

Over time, all of that kneeling and hauling can catch up with you. Use lifts, get help from others to move heavy pieces, don't stay in one position too long, and try to be as comfortable as possible as much as possible.

This is not a sign of weakness. It's a simple acknowledgment that your health in the future is shaped by the actions you take today.