



## MJS Safety EXPANSION

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### ▶ **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 July 2019:** • *TRAINING CENTER - 1760 BROAD ST, UNIT H, MILLIKEN, CO 80543* • [read more...](#)

## OSHA / CONSTRUCTION NEWS SUMMARY

### ▶ **Neglect Leaves OSHA Short-Staffed and Leaderless**

DESPERATE HOURS AT THE AGENCY? *Here we go again.* [read more...](#)

### ▶ **Join us for *Safe + Sound Week*, August 12-18, 2019**

*Safe + Sound Week* is a nationwide event to celebrate the successes of businesses that have implemented safety and health programs in the workplace. [read more...](#)

### ▶ **Trenching Safety**

*5 things you should know to stay safe* [read more...](#)

### ▶ **Workplace Violence, LOTO, Silica on OSHA's Spring 2019 Regulatory Agenda**

The spring 2019 regulatory agenda released by OSHA recently includes rulemakings in various stages that will be priorities for the agency in the near future. [read more...](#)

### ▶ **Protect Workers Operating and Working Near Forklifts**

Forklifts are an essential piece of equipment in many workplaces, especially in warehousing and manufacturing. [read more...](#)



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### ▶ **CVSA's Operation Safe Driver Week**

**JULY 14-20...Focus on Speeding**

Drivers' actions contributed to a staggering 94 percent of all traffic crashes, according to the National Highway Traffic Safety Administration's (NHTSA) [2015 Traffic Safety Facts](#) report. [read more...](#)



### ▶ **FMCSA to Host Sessions on Elds, Drug and Alcohol Clearinghouse at GATS**

The **Federal Motor Carrier Safety Administration** will host two one-hour sessions at the **Great American Trucking Show** in Dallas later this summer. [read more...](#)

▶ **FMCSA Delays Public Release of HOS Proposed Rule**

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▶ **FMCSA DRUG AND ALCOHOL CLEARINGHOUSE**

**COMING SOON**

The Clearinghouse will improve highway safety by helping employers, **FMCSA**, State Driver Licensing Agencies, and State law enforcement to quickly and efficiently identify drivers who are not legally permitted to operate commercial motor vehicles (CMVs) due to drug and alcohol program violations. [read more...](#)

▶ **Trucking Law:**

**How to Obtain On-Scene Video**

I had a case where a truck driver collided with a passenger vehicle. The officer, who did not witness the accident, interviewed the other driver and wrote my client several citations. My client was adamant that he did nothing wrong and that the other car was solely at fault. He said he could prove it. [read more...](#)



▶ **Nationwide Brake Inspection Spree Set for September**

The [Commercial Vehicle Safety Alliance's](#) annual **Brake Safety Week** has been scheduled for **Sept. 15-22** with a focus on **brake hoses** and **tubing**. [read more...](#)



## MSHA NEWS SUMMARY

▶ **U.S. Department of Labor Announces Upgraded Data System to Assist Mine Operators in Ensuring Compliance with Mine Safety and Health Regulations**

The U.S. Department of Labor's [Mine Safety and Health Administration \(MSHA\)](#) has **completed a major upgrade** to its **primary data system** – the **Mine Data Retrieval System (MDRS)** – bringing **increased functionality** and more **intuitive navigation** to this **widely used** feature. [read more...](#)



▶ **MSHA CLOSE CALL ALERT**

**Surface—Iron Ore**—On April 29, 2019, a miner suffered minor injuries when his haul truck traveled over the edge of a stock pile dump point causing the truck to roll onto its top. The driver was wearing a seat belt.

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



## MONTHLY SAFETY & HEALTH TIP NEWS SUMMARY

▶ **The No Maintenance Myth**

Source: *Kyle Krueger — district manager for Industrial Scientific Corporation — [kkrueger@indsci.com](mailto:kkrueger@indsci.com)*

People seem to have this yearning to find a gas detector that doesn't need to be bump tested or calibrated (but can magically be ready at any moment to provide the proper detection with 100 percent accuracy). [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](#).

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

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- ~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 July2019: • TRAINING CENTER - 1760 BROAD ST, UNIT H, MILLIKEN, CO 80543

- PEC Safeland Basic Orientation: July 9, 22, 30; 8 - 4:30
• First Aid/CPR/AED/BLOODBORNE PATHOGENS (We offer MEDIC FIRST AID): July 12, 13 (SATURDAY CLASS), 24; 8 - noon
• TEEK H2S Operator Training - Awareness (ANSI Z390-2017 Course): July 8, 12, 24; 12:30 - 4:30
• Excavation & Trenching Competent Person (NUCA Course): Call to schedule a class

[ 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

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- Safeland Basic Orientation • Hydrogen Sulfide Awareness • First Aid/CPR
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## OSHA / CONSTRUCTION

# Neglect Leaves OSHA Short-Staffed and Leaderless

## DESPERATE HOURS AT THE AGENCY?

### *Here we go again.*

In **OSHA's** 48-year-old history, the agency has experienced desperate hours on a regular schedule. The agency opened its door in 1971. Before the decade was out a **"STOP OSHA"** lobbying movement was underway.

In 1979, Republican Senator Richard Schweiker of Pennsylvania proposed an **"OSHA Improvements Act"** which would have exempted from inspections all employers, large or small, regardless of industry, with good safety records. It was defeated in 1980.

That year Ronald Reagan was elected president. Reagan had earlier written that **"OSHA is a four-letter word that's giving businessmen fits."**

### Who's in power? Doesn't matter

In the 1990s, then-Vice President Al Gore vowed to **"reinvent" OSHA** to be more **"user friendly."** Union safety leaders rolled their eyes, shook their heads. For them, these were threatening times for the agency's mission.

In the early aughts during the George W. Bush administration, **OSHA** chief John Henshaw was told to scrap any idea of issuing new standards and focus on growing the Voluntary Protection Program (VPP). Dickey times for enforcement and standards-setting.

For years during the Obama administration, **OSHA** chief Dr. David Michaels worked tirelessly promoting the I2P2 standard – Injury and Illness Prevention Programs. That idea ended up in the long-term standards action dustbin. A fate reminiscent of the ergonomics standard killed off by Congress within months of Bush taking office in 2001. Desperate hours? Depends on who you ask.

### A regular cycle

For a miniscule agency, (compare OSHA's budget of approximately \$550 million to the EPA budget of about \$6 billion) **OSHA** has had a recurring cycle of dark times. The more politics change, the more they don't – **OSHA** is easy to pick on. Then again, it's hard to imagine President Trump personally interviewing the nominee to head **OSHA**, which President Jimmy Carter did with Dr. Eula Bingham in the 1970s.

Trump's nominee, former FedEx Ground safety leader Scott Mugno, was announced in October, 2017 and Mr. Mugno has been in limbo long enough to have retired and moved to Florida. The GOP Senate has yet to approve his nomination.

### Latest dire reports

A small spate of new stories surrounding Workers' Memorial Day in late April represents the latest doom and gloom reports. One article talks of **"a desperate moment for OSHA," "OSHA's weakened status"** and a **"toothless OSHA"** due to a severe staffing shortage. That report's headline: **"American Workplaces May Be Getting More Dangerous."**

How many times has **OSHA** been described as **"toothless"**? It's a wonder the agency has any teeth left.

A second news report states: **"Federal watchdog OSHA has cut workplace safety inspectors to the lowest level in its 48-year history under the Trump administration."** In 2016, the number stood at 815, down from nearly 1,000 in 2010. Due to attrition and a federal hiring freeze (since lifted), the report says only 752 inspectors are now employed.

### Lonely at the top

These latest reports don't even mention the swiss cheese nature of **OSHA's** leadership. At the end of April, 2019, the **OSHA** org chart was shot through with holes and vacancies and transients.

— Top-level senior advisors? Vacant.

— Deputy Assistant Secretary? Vacant.

Loren Sweatt is pulling double duty as the acting head of **OSHA**, and also the Principal Deputy Assistant Secretary. The director of whistleblower protection programs is serving on an acting basis. Temporary or acting replacements head up the directorate of enforcement programs, the directorate of training and education, and the directorate of construction.

**OSHA's** chief of staff, a key position, was just filled in February, 2019.

Of **OSHA's** ten regional administrators, there are **"temps"** holding down the job in Seattle, Denver, Dallas and New York. Barbara Goto is pulling double duty heading the San Francisco and Seattle regions. Same with Richard Mendelson in New York and Philadelphia.

Imagine a corporate org chart, at the highest level, filled with so many holes and temps. Investors, analysts, stockholders would be up in arms. Obviously, this is no way to run a sustainable, successful business.

### Who cares?

And it's taken its toll at OSHA. "I am in pretty close touch with a number of people in OSHA. Morale is probably at the lowest that I can recall seeing," says a former high-ranking agency manager. "There is little to no leadership. Too many senior slots are open. This sends a message to the OSHA staff that career development and filling key positions does not matter. There is a sense among OSHA staff that the administration really does not care about what OSHA does or how it does it."

### At the local level

On the ground, an OSHA staffer who spoke to ISHN on the condition of anonymity says "desperate" may be too strong a word, but he goes on to describe churn and confusion at the area office level. In one case, the office receptionist resigned and five inspectors retired or transferred between 2015 and 2018; none were

replaced. The office VPP coordinator retired and was not replaced.

"We were hoping to be able to backfill the five vacant inspector slots, but they were deleted last year," he says.

A regional emphasis program on process safety management (PSM) inspections in oil refineries is undercut by the fact that there are no inspectors with the required six weeks of training to be a team leader of PSM inspections, according to this OSHA officer.

Right now he's juggling three jobs: taking turns with three other staffers as acting area director (the former AD retired January 3rd and the agency has not announced the position to hire anyone); coordinating VPP activity; and providing compliance assistance to businesses.

In Washington, it's impossible to kill a nearly 50-year-old agency like OSHA. But you can neuter it through willful neglect. The agency's news releases on big fines are misleading. The Department of Labor and OSHA are playing a numbers game to keep up inspections and penalties, according to sources. A rear-guard action while the agency continues to shrink, literally and in stature.

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## Join us for **Safe + Sound Week**, August 12-18, 2019

**Safe + Sound Week** is a nationwide event to celebrate the successes of businesses that have implemented safety and health programs in the workplace. Throughout the year, businesses show their commitment to safety by focusing on management leadership, worker participation, and a systematic approach to finding and fixing hazards in workplaces. Each August we invite them to celebrate their safety successes and efforts to be #SafeAndSoundAtWork.

### Why Participate?

Safe workplaces are sound businesses. Successful safety and health programs can proactively identify and manage workplace hazards before they cause injury or illness, improving sustainability and the bottom line.

Participating in **Safe + Sound Week** can help get your program started or energize an existing one.

### Who Participates?

Organizations of any size or in any industry looking for an opportunity to celebrate their commitment to safety to workers, customers, the public, or supply chain partners should participate.

## Trenching Safety

5 things you should know to stay safe



[Click here for PDF](#)

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### How to Participate

Participating in **Safe + Sound Week** is easy. To get started, select the activities you would like to do at your workplace. You can host an event just for your workers or host a public event to engage your community. After you've completed your events, you can download a certificate and web badge to recognize your organization and your workers.

Need ideas...

Want more information?

Click this [link](#).

# Workplace Violence, LOTO, Silica on OSHA's Spring 2019 Regulatory Agenda

The spring 2019 regulatory agenda released by OSHA recently includes rulemakings in various stages that will be priorities for the agency in the near future.

## Included on the agenda:

**WORKPLACE VIOLENCE IN HEALTH CARE:** After having published an RFI in 2016 that solicited input on issues and prevention strategies to consider in developing a standard, OSHA now intends to initiate a **Small Business Regulatory Enforcement Fairness Act (SBREFA)** panel to address the issue of preventing workplace violence specifically in healthcare and social assistance industries. Congress, however, introduced a bill earlier this year that would fast-track the regulatory process by directing OSHA to adopt and implement a final rule without following the traditional rulemaking procedures. In Congressional hearings on the "[Workplace Violence Prevention for Health Care and Social Service Workers Act](#)," attorney Manesh K. Roth of the Washington, D.C.-based law firm, Keller and Heckman LLP, said; "There is no crisis that would justify casting aside the traditional rulemaking due process. A safety or health standard should be adopted only after gathering input from the affected stakeholder community as to the most effective way to proceed.

**SILICA STANDARD FOR CONSTRUCTION:** OSHA stated its intention to publish a **Request for Information (RFI)** by May 2019 soliciting comment on potential updates to **Table 1** of the **Silica Standard for the Construction Industry**. Construction industry employers who comply with the engineering controls, work practices, and respiratory protection specified for the task in **Table 1** are not required to perform exposure assessments or comply with the permissible exposure limit in the silica standard. OSHA is interested in gathering information from stakeholders on the effectiveness of control measures, tasks and tools that are not currently listed in **Table 1** and will evaluate information to determine if revisions to **Table 1** are appropriate.

**LOCK-OUT/TAG-OUT:** On May 20, 2019, OSHA published in the **Federal Register** an RFI to solicit input on two areas where "modernizing" the [Lock-Out/Tag-Out \(LOTO\)](#) standard "might better promote worker safety without additional burdens to employers." First, OSHA seeks information about the safe use of control circuit type devices, which are currently excluded from OSHA's definition of energy-isolating device, to control of hazardous energy. OSHA also solicits information about controlling hazardous energy from the use of robotics technology in the workplace.

**Comments are due in response to the RFI by August 19, 2019.**

**HAZARD COMMUNICATION:** OSHA stated its intention to publish its much-anticipated proposed rule to harmonize the [Hazard Communication Standard \(HCS\)](#) with the "latest edition" of the [Globally Harmonized System of Classification and Labeling of Chemicals \(GHS\)](#). OSHA intends to publish the proposed rule by **December 2019**. OSHA acknowledges that the GHS is a "living document and has been updated several times since OSHA's March 2012 rulemaking." OSHA notes in the agenda that the HCS is currently based on **Revision 3** of the GHS, while the United Nations has completed **Revision 7**. **Revision 8** is due to be released this summer.

**EMERGENCY RESPONSE:** OSHA stated its intention to initiate a **Small Business Regulatory Enforcement Fairness Act (SBREFA)** panel by May 2019 which would consider updates to OSHA's various emergency response and preparedness standards. The SBREFA panel will include several issues for a potential draft standard, including organization risk management, facility and equipment preparedness, standard operating procedures and incident management, and medical/fitness requirements.

OSHA also released an update of its "**Long Term Actions**" list, which, notably, includes its **Process Safety Management (PSM) Standard** and "[Drug Testing Program and Safety Incentive Rules](#)."

OSHA was directed by **Executive Order 13650** to modernize the PSM standard following the **West Fertilizer Company** facility explosion in 2013. OSHA has already collected feedback on various proposals to revise the [PSM Standard](#) in response to the 2014 RFI and the 2016 SBREFA panel. OSHA indicates on the agenda that action on the PSM standard is "to be determined."

As for drug testing and safety incentive programs, OSHA expects to issue a proposed rule in September 2020 that would "memorialize" an October 2018 [field memorandum](#) clarifying OSHA's position on drug testing and safety incentive programs following the issuance of the "[Improve Tracking of Workplace Injuries and Illnesses](#)" rule.

To read the full agenda, visit the [Office of Information and Regulatory Affairs \(OIRA\) website](#).

## Protect Workers Operating and Working Near Forklifts

Forklifts are an essential piece of equipment in many workplaces, especially in warehousing and manufacturing.



Although these vehicles make work more efficient, they can pose serious hazards to those operating or working near them.

OSHA reminds employers and workers that these hazards can be prevented by following safe practices and ensuring that workers are properly trained.

**Taking the following steps can protect workers from forklift hazards.**

- Always wear seatbelts when operating a forklift.
- Never exceed the rated load, and ensure loads are balanced.
- Make sure you have enough clearance when raising and loading materials.
- Watch for pedestrians and observe speed limits.
- Keep a safe distance from platform and ramp edges.

For more information on ways to keep workers safe while working with or around forklifts, visit [OSHA's Powered Industrial Trucks – Forklifts](#) page.

OSHA's [On-Site Consultation Program](#) offers no-cost and confidential occupational safety and health compliance assistance to small- and medium-sized businesses. Consultation services are separate from enforcement and do not result in penalties or citations.

**OSHA ALERT — pdf**  
[Protect Workers Operating and Working Near Forklifts](#)

**MJS SAFETY** offers Forklift training....

GIVE US A CALL TO SCHEDULE A CLASS  
CARRIE – 720-203-4948

# CVSA's Operation Safe Driver Week

**JULY 14-20**

## Focus on Speeding

Drivers' actions contributed to a **staggering 94 percent** of all **traffic crashes**, according to the **National Highway Traffic Safety Administration's (NHTSA) 2015 Traffic Safety Facts** report.

In response to this issue, **law enforcement personnel** will be on the lookout for **commercial motor vehicle drivers** and **passenger vehicle drivers** engaging in dangerous driver behaviors **July 14-20** as part of the **Commercial Vehicle Safety Alliance's (CVSA) Operation Safe Driver Week**. Drivers engaged in **unsafe driving behaviors** will be **pulled over** by **law enforcement** and may be issued a **warning** and/or **citation**.

- In 2017, speeding was a contributing factor in 26 percent of all traffic fatalities, according to [NHTSA](#). That's 9,717 lives lost due to speeding.
- During [last year's Operation Safe Driver Week](#), **16,909 passenger vehicle drivers** and **1,908 commercial motor vehicle drivers** were issued citations for speeding. In addition, **17 commercial motor vehicle drivers** and **714 passenger vehicle drivers** were **cited for driving too fast** for the conditions.
- According to the [Insurance Institute for Highway Safety Highway Loss Data Institute](#), speeding has been a factor in more than a **quarter of crash deaths** since 2008.
- According [FMCSA's 2016 Large Truck and Bus Facts](#), speeding of any kind was the most frequent driver-related crash factor for drivers of commercial motor vehicles and passenger vehicles.

For these reasons, **CVSA** selected **speeding** as the **emphasis area** for this year's **Operation Safe Driver Week** and **law enforcement** jurisdictions throughout North America will be endorsing, **promoting** and supporting the following message: **Late won't kill you, speeding will.**

"For more than **two decades**, speeding has been involved in **nearly one-third** of all **motor vehicle fatalities**," said **CVSA** President Chief Jay Thompson with the Arkansas Highway Police. "That is **unacceptable**, especially because it's **preventable**. We will continue to **educate the public** on the **dangers** of speeding and we will **identify individuals** who are speeding on our **roadways** and may issue **citations** as a deterrent to future **speeding tendencies** and to affect **diver behavior**."

In addition to the **emphasis** on speeding, **law enforcement** personnel will be **tracking** other dangerous driver **behaviors** throughout **Operation Safe Driver Week**, such as **distracted driving**, texting, failure to use a **seatbelt**, following too closely, **improper lane** change, reckless or **aggressive driving**, failure to obey traffic control devices, evidence of **drunk** or **drugged driving**, etc.

A [2014 study](#), titled "Do Traffic Tickets Reduce Motor Vehicle Accidents? Evidence from a Natural Experiment," investigated whether traffic **violation enforcement** actually reduces the number of motor **vehicle crashes**. The study's **author** used one of the **best-known** enforcement **programs**, **Click It or Ticket**, which **focuses** on mandating **seat belt use** and ticketing violators. The study found that the **Click It or Ticket** campaign **decreased** motor vehicle **crashes** by roughly **11 percent** and found that a **1 percent increase** in **citations issued** led to a **0.28 percent decline** in motor **vehicle crashes**. The ticketing campaign also **reduced** the number of **non-fatal injuries** from **motor vehicle crashes**.



"As **unpopular** as traffic citations are among **drivers**, we know that driver **behavior** does **respond** to contacts with **law enforcement** and warnings and **citations**," said Chief Thompson. "Roadway **safety** is our **top priority** and this traffic enforcement initiative supports our **goal** of making sure everyone **driving** on our **roadways** is doing so safely."

**CVSA's Operation Safe Driver Program** was created to **help reduce** the number of **crashes**, deaths and **injuries** involving large trucks, **buses** and passenger vehicles due to **unsafe driving** behaviors. **Operation Safe Driver Week** is sponsored by **CVSA**, in partnership with **FMCSA** and with support from **industry** and transportation **safety** organizations. The **initiative aims** to help improve the **behavior** of all drivers **operating** in an **unsafe manner** – either in or around **commercial motor vehicles** – through educational and **traffic** enforcement strategies to **address individuals** exhibiting **high-risk driving** behaviors.

To **find out** about **Operation Safe Driver Week** enforcement **events** going on in your area, [contact](#) the agency or **department** responsible for **overseeing commercial** motor vehicle **safety** within your jurisdiction.

## FMCSA to Host Sessions on Elds, Drug and Alcohol Clearinghouse at GATS

The **Federal Motor Carrier Safety Administration** will host **two one-hour sessions** at the **Great American Trucking Show** in Dallas later this summer.

**GATS** will be held **Aug. 22-24** at the Kay Bailey Hutchison Convention Center in downtown Dallas.

Both sessions will be titled, "FMCSA Hot Topics: ELD Implementation and Transition, the Drug and Alcohol Clearinghouse and more". **FMCSA's** Joe DeLorenzo, director of the Office of Enforcement and Compliance, and Bill Mahorney, division chief of enforcement, will be **speaking** at the sessions.

The **CDL Drug and Alcohol Clearinghouse** takes effect in **January 2020**. The **Clearinghouse** will record all **drug test failures** conducted for **pre-employment screenings**, **random drug tests** and **post-crash tests**.

In addition to the stage sessions, **FMCSA** will host a **listening session** on Friday, Aug. 23, from **10 a.m. to noon** with an update from Administrator Ray Martinez.

The sessions will be held **Thursday, Aug. 22**, from 3-4 p.m., and **Saturday, Aug. 24**, from 1-2 p.m. on the **Hall A Stage** at the show.

Interested in attending the 2019 Great American Trucking Show?

[Register for free online here.](#)



## FMCSA Delays Public Release of HOS Proposed Rule

The long-anticipated **Federal Motor Carrier Safety Administration hours-of-service** proposed rule has been **delayed** from its **original** release date of **June 7**.

**FMCSA** Administrator Ray Martinez said in an **interview** that his agency is **targeting** a **release** in **June**, but the rule has **been delayed** due to **continuing questions** from the White House **Office of Management and Budget**.

"We'll turn it **around** as fast as **possible** once **OMB** finishes its **review**," Martinez said.

A **FMCSA** spokesperson **said** in a statement: "**FMCSA's** **proposed rule** on changes to the **hours-of-service (HOS)** regulations **continues** to be **reviewed** by the **Office of Management and Budget (OMB)**. The **timelines** in the Department's **regulatory updates** serve as **goals** for the Agency and are **reflective** of **FMCSA's** plan to move quickly during this **rulemaking** process. The Agency is **hopeful** the **rule** will be **published soon**."

A **Department of Transportation** significant rulemaking report **removed** the **projected date** of release for the rule **intended** to give truckers **more flexibility** from **June 7**, and changed the date to the **month of June**.

The **Notice of Proposed Rulemaking** has been under **OMB** review **since late March**.

**FMCSA** officials **combed** through **thousands** of comments and gathered input on **potential rule** changes for months before **submitting** the **NPRM** to the White House. The agency **published** an **Advance Notice of Proposed Rulemaking** Aug. 23 concerning the **shorthaul HOS limit**, the **HOS exception for adverse** driving conditions, the **30-minute rest-break** provision and the **split sleeper-berth** rule to allow **drivers** to divide their **required rest time** in the **sleeper berth**.

The **ANPRM** garnered more than **5,200 comments** by the time the **comment period** closed **Oct. 10**. The agency also hosted **five listening sessions** nationwide to gather **industry feedback**.

In its **ANPRM**, the agency **sought answers** from stakeholders in **four general** areas:

- *Should the agency expand the current 100 air-mile "shorthaul" exemption from 12 hours on-duty to 14 hours on-duty, to be consistent with the workday rules for longhaul truck drivers?*
- *Is there adequate flexibility in the adverse driving exception that currently expands driving time by up to two hours?*
- *If the 30-minute rest break after eight hours of driving did not exist, would drivers obtain adequate rest breaks throughout a daily driving period to relieve fatigue?*
- *Do you have information that would support reinstating the option for splitting up the required 10-hour off-duty rest break for drivers operating trucks with sleeper-berth compartments?*

## FMCSA DRUG AND ALCOHOL CLEARINGHOUSE COMING SOON

### Commercial Driver's License Drug and Alcohol Clearinghouse

The Clearinghouse will improve highway safety by helping employers, **FMCSA**, State Driver Licensing Agencies, and State law enforcement to quickly and efficiently identify drivers who are not legally permitted to operate commercial motor vehicles (**CMVs**) due to drug and alcohol program violations. This secure online database will provide access to real-time information, ensuring that drivers committing these violations complete the necessary steps before getting back behind the wheel, or performing any other safety-sensitive function.

### WEBSITE UPDATES

#### [Updated FAQs, Timeline, New Resources](#)

The Clearinghouse website has been updated with additional information, including an interactive timeline and revised frequently asked questions.

- ▶ **December 5, 2016**  
Clearinghouse Final Rule Published
- ▶ **Fall 2019**  
Registration Begins
- ▶ **January 6, 2020**  
Clearinghouse Implementation
- ▶ **January 6, 2023**  
Clearinghouse Three-Year Mark

[HOW WILL I USE THE CLEARINGHOUSE?](#)

[GET NEWS AND UPDATES](#)

[FACT SHEET](#)

# Trucking Law:

## How to Obtain On-Scene Video

**Source:** Brad Klepper, president of Interstate Trucker and Drivers Legal Plan. He can be reached at 800-333-3748, InterstateTrucker.com and DriversLegalPlan.com.

I had a **case** where a **truck driver** collided with a **passenger vehicle**. The officer, who did **not witness** the accident, **interviewed** the **other driver** and wrote my client **several citations**.

My client was **adamant** that he did **nothing wrong** and that the **other car** was **solely at fault**. He said he could **prove it**.

I later **received** a **DVD** from my **client** showing the view from his **forward-facing camera**. Traveling **below** the **speed limit** on a **highway** with **three lanes** in each direction, my client was in the **far right lane**. A sedan **passed** him in the **far left lane**, then cut across **two lanes** to try and **make an exit**. My client tried to **avoid** the collision and **clipped** only the **back** of the car as it passed in **front** of him at **essentially a 90-degree angle**.

After I **shared** the **video** with the **prosecuting attorney**, my client's **citation issues** went away. So did the **civil lawsuit** the driver of the **other vehicle** had filed against my **client's employer**.

In the **legal arena**, knowledge is **everything**. Onboard **cameras** provide one of the **best ways** to learn **critical information** – the **good**, the **bad** and the **ugly** – about your case. This **knowledge** allows you to make **better decisions**, such as whether to **contest** a matter or **settle**. This is **especially true** in **accident situations**.

However, **what good** does a **video** do in a **routine traffic stop**? Oftentimes, **not much**.

In **some cases**, though, wouldn't it be **nice** to review **exactly what the officer saw** when, for example, he **issued a citation** for



some **piece of defective equipment** — perhaps a **“damaged” hazmat placard**?

You can **obtain** this information in a **criminal proceeding** through the **discovery** process. But how would you get it to **support** your position in a **DataQ challenge**? There **may be a way**.

In 2016, the **U.S. Department of Justice** awarded over **\$20 million** to more than 100 **law enforcement** agencies as part of a **body-worn camera** program. The purpose was to **create** transparency in **police** interactions with the **public**. For transparency to **work**, the recordings **need** to be **reviewable** by the public and **media**.

This generally can be **accomplished** at the federal **level** by submitting a request through the **Freedom of Information Act**. **FOIA** allows the **public** to access records of **federal** agencies. There are **exceptions** to **FOIA**, but this is where you start.

Similar to **FOIA**, each state has a **statute** that allows you to **request** this information, though **state laws** and their restrictions **vary**.

States generally have taken **wide-ranging** positions on the **availability** of these **videos**. Each allows law **enforcement** agencies some **discretion** to withhold or **deny** requests for video. A **good source** on state laws regarding **camera-worn video** can be found by Googling **“body-worn camera laws database.”**

If you want to **obtain access** to video to **support** a challenge, train a driver or **just satisfy** your sense of **curiosity**, for **state-level matters** I suggest starting with a **review** of the state's **applicable law**. Make your **request** as timely as **possible**, as some states have **deadlines** for making such a request. Sometimes there is a video **retention policy** that results in **older video** being **deleted**.

## Nationwide Brake Inspection Spree Set for September

The **Commercial Vehicle Safety Alliance's** annual **Brake Safety Week** has been scheduled for **Sept. 15-22** with a focus on **brake hoses** and **tubing**.

Throughout that week, **inspectors** will be conducting **roadside inspections** and **keying in** on **brake violations**.

**CVSA** says **brake hoses** and **tubing** are essential for the **proper operation** of braking systems in **trucks**. Inspectors will be **checking** to make sure the hoses and **tubing** are properly attached, **undamaged**, without leaks and **appropriately flexible**.

“We all know how **important** a properly **functioning brake system** is to vehicle **operation**,” said **CVSA** President Chief Jay Thompson with the Arkansas Highway Police. “**All components** of the brake system must **always** be in **proper operating condition**. Brake systems and their **parts** and components must be **routinely checked** carefully and consistently **maintained** to ensure the **health** and safety of the **overall vehicle**.”

**Out-of-adjustment brakes** and other brake system **violations** represented **45 percent** of all **out-of-service** vehicle violations during **2018's International Roadcheck**. During last year's **Brake Safety Week**, law enforcement **conducted** more than **35,000 inspections** and placed nearly **5,000** of those **out-of-service**.

**More details** to come in **next month's** newsletter.



## U.S. Department of Labor Announces Upgraded Data System to Assist Mine Operators in Ensuring Compliance with Mine Safety and Health Regulations



The U.S. Department of Labor's **Mine Safety and Health Administration (MSHA)** has **completed a major upgrade** to its **primary data system** – the **Mine Data Retrieval System (MDRS)** – bringing **increased functionality** and more **intuitive navigation** to this **widely used** feature.

The **MDRS** offers a **variety of tools** to help **operators monitor** their compliance with **MSHA regulations**. The system **provides access to comprehensive mine** location, status, ownership, **employment**, production, **accident/inspection/violations** history, and health **sampling data**. Additionally, **MSHA's** compliance assistance calculators – **Pattern of Violations (POV)**, **Significant and Substantial Rate**, and **Violations per Inspection Day** – can be accessed [here](#). The **MDRS gateway** is the **most visited page** on the **agency's website**.

All the **standard reports** previously provided are **still available**, but now **MSHA-wide statistical reports** providing **real-time data** are also tied to the **MDRS**. Furthermore, the **new system** provides **advanced search capabilities** where users can **select entire industries**, **multiple mines**, and **ownership groups**. The platform also **allows users to export datasets** into either **Excel** or **PDF** for **further analysis**.

“The new **Mine Data Retrieval System** will **simplify the process** for operators and others to **obtain key data** points and compare the **safety of their mines** with industry **standards**,” said **MSHA** Assistant Secretary David G. Zatezalo.

The **upgrade** has been in the **works** for more than a **year** and was guided in **part** by input from **stakeholders**, including **mine operators** and **associations**, who participated via **three webinars**. A **beta version** was run **side-by-side** with the **original platform** on the **agency homepage** as **MSHA** gathered **feedback** and **refined** the system.

The new **MDRS** is now the **exclusive gateway** to this **real-time data**, posted prominently on the **MSHA website** and available through [this link](#).

**MSHA** will **continue to seek feedback** and **improve** the **MDRS** to assist all **stakeholders** and the **general public** in **monitoring the safety and health** of the **nation's miners**.

The **Office of Compliance Initiatives (OCI)** is part of the **Department of Labor's Office of the Assistant Secretary for Policy**, and fosters a **compliance assistance culture** within the **Department** designed to **complement** its **ongoing enforcement** efforts. This office **focuses** on helping enforcement **agencies** more **effectively** use **online resources** to deliver **information and compliance assistance** to help the **American people**.

In August 2018, **OCI** launched [Worker.gov](#) and [Employer.gov](#) to **provide information** about **workers' rights** and the **responsibilities of job creators** toward their **workers**.

### MSHA CLOSE CALL ALERT

**Surface – Iron Ore** – On April 29, 2019, a miner suffered minor injuries when his haul truck traveled over the edge of a stock pile dump point causing the truck to roll onto its top. The driver was wearing a seat belt.

#### Best Practices:

- Always wear a seat belt when operating self-propelled mobile equipment.
- Examine dumping locations for stability prior to dumping the first load and as ground conditions change during the work shift. Where ground conditions may fail to support the weight of the truck, dump loads a safe distance back from the edge.
- Provide training regarding dump-point hazards.
- Travel in a straight line when backing a truck toward a dump location.
- Maintain berms or similar impeding devices at dumping locations where there is a hazard of overtravel or overturning.
- Clearly mark dump locations with reflectors and/or markers.



# The No Maintenance Myth

Source: Kyle Krueger — district manager for Industrial Scientific Corporation — [kkruieger@indsci.com](mailto:kkruieger@indsci.com)

People seem to have this yearning to find a gas detector that doesn't need to be bump tested or calibrated (but can magically be ready at any moment to provide the proper detection with 100 percent accuracy).

*I am so tired of watching what I eat, having to keep up with a regular fitness routine, brushing my teeth, going to the doctor, and taking my daily medications. So today, I am going to stop. From now on, I will eat whatever I want, do ZERO fitness, and sit around the house all day—all despite the warnings from decades of research from countless health professionals and agencies.*

*This nonchalant lifestyle might be fun for a while. So why bother doing all those things in the first place? Probably because I want to live a long and healthy life so that I can see my kids graduate and one day meet my first grandchild. That is why I run four times a week, try to eat well, and take my daily medication. Is a day of not doing this daily maintenance going to hurt me? Probably not. But a prescription to the "no maintenance" lifestyle every single day will likely have compounding effects. You or I don't know what the effects will be.*

*I could be that 95-year-old who still smokes and drinks every day, or I could die at 55 of a heart attack. But I will go ahead and listen to the medical professionals, because the risk, quite frankly, isn't worth it. And for the most part, I think people accept and know they should do those things to be healthy. Whether people actually stick to a personal maintenance routine is a whole other matter.*

**So why has the myth of "no maintenance" been so pervasive throughout my 14-years in the gas detection industry?**

This mythical White Whale swims in the vast ocean of our safety thoughts as we circumnavigate our workplaces. We dream about it and want it to be true. However, I am here to tell you, I have found the mythical beast! Every monitor can transform by following these simple steps.

1. Buy a gas detector.
2. Don't ever bump test it or calibrate it.

**That's it. Congratulations, you have a "no maintenance" gas detector!**

There is a chance that a gas detector could be ready to act when you need it to. You start to think about all the time and money you will save not doing maintenance, then another contradicting thought might emerge. It goes something like, *"If I do NOTHING, am I 100 percent sure that this thing will alarm when a potentially fatal atmosphere is present?"* "Have you seen what this monitor looks like after a week in the field?"

Okay, keep going, because you are on the right track to unraveling the pervasive myth. That uneasy feeling, that lack of peace of mind, should be the reminder you need to perform a bump test or calibration check.



## The Moral of a North Dakota Story

*I will never forget that day in North Dakota. A user called me stating that he was having trouble with his gas detector and didn't trust it. To determine whether the device would perform its important duty, we applied gas to it. We waited, and waited, and still no reading appeared on the monitor. We checked the tubing, regulator, and gas, and all were working. We were sending 25 ppm H<sub>2</sub>S on top of the monitor, and it read 0...0! We did more troubleshooting to find that the filter was clogged with a clear substance that blocked the ability of the sensor to see gas. We removed the filter and, sure enough, the sensor responded.*

## What is the moral of the North Dakota story?

Some might get away with the "no maintenance" lifestyle with no issues. But when this user had the foresight to do "maintenance," he discovered that "maintenance" was critical, helpful, and important to his daily lifestyle.

"Instrument inaccuracy due to improper or irregular maintenance and calibration can lead to exposure to hazardous levels of toxic gases or to an oxygen-deficient atmosphere. This exposure can cause workers to suffer serious injuries or illness, and even death. Flammable gas explosions are often catastrophic, resulting in worker injuries and death, or destruction of property."

That quote is from a bulletin that OSHA issued in September 2013 titled **"Calibrating and Testing Direct-Reading Portable Gas Monitors."** To summarize their findings, I will borrow a phrase from the '80s . . . *"Just say no." Say "no" to "no maintenance."*

It doesn't matter that all the cool kids are doing it. Not performing maintenance can have dire consequences. While I won't paraphrase the remainder of the bulletin, I highly encourage you to take the time to read the [bulletin](#) in full. They go into very clear detail and reinforce the ground that your contradicting thought started to stand on.

We need to shed light on the "no maintenance" myth. It is not an innovation or a breakthrough in technology. It's a promotion of complacency. Please don't look to any gas detection manufacturer to give you permission to be complacent about your maintenance. That choice has always been, and will continue to be, yours.

Do the right thing, and bump test and calibrate your monitors. Unless you want to gamble and roll the dice of uncertainly. Just know that the compounding debt can only be paid in the currency of human suffering.