OSHA/CONSTRUCTION NEWS SUMMARY

► Prepare for 2016 with 2015 OSHA Stats

To **start off** the **New Year,** we wanted to take a **moment** to look at the **top 10** Occupational Safety and Health Administration's (OSHA) **violations** for **2015.** As you put **together** your **safety plan** for **2016,** this list is a **powerful reminder** about where to **focus awareness** and **training efforts** in order to **avoid** these kinds of **accidents** and **incidents,** and their **associated fines,** in the **coming year.** *read more…*

► The Opioid Overdose Epidemic and the Workplace

Last week, the Centers for Disease Control and Prevention released **troubling statistics** on the **growing epidemic** of drug and **opioid overdose deaths** in the **United States.** *read more…*

► Report a Fatality or Severe Injury

▪ All employers are required to notify OSHA when an employee is killed on the job or suffers a work-related hospitalization, amputation, or loss of an eye……… *read more…*

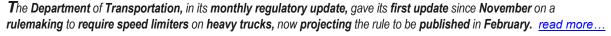### ► Top 10 Causes and Direct Costs of the Most Disabling U.S. Workplace Injuries

Whether you are a **small business owner** or director of **EHS** at a **large corporation,** you know the **importance** of **safety.** *read more…*

► Construction Association Urges 13 Steps for Worker Safety

The **Associated General Contractors** of **America** (AGC) is **urging commercial construction** firms to act on **13 specific steps** to **further improve** workplace **safety**—in response to an **increase** in the number of **construction fatalities.** *read more…*

TRANSPORTATION NEWS SUMMARY

► Bevy of Rulemaking Activity Expected Soon, Including Speed Limiter Mandate, Apnea Pre-Rule and CDL Clearinghouse

The Department of Transportation, in its **monthly regulatory update,** gave its **first update** since **November** on a **rulemaking** to **require speed limiters** on **heavy trucks,** now **projecting** the rule to be **published** in **February.** *read more…*

► CVSA Reveals 2015 Operation Safe Driver Week Results

On January 5, the **Commercial Vehicle Safety Alliance** (CVSA) released **results** of the **2015 Operation Safe Driver Week** that was **conducted** October 18-24, 2015. *read more…*

► NTSB UNVEILS 2016 LIST OF MOST-WANTED SAFETY IMPROVEMENTS

The National Transportation Safety Board (NTSAB) unveiled its 2016 Most Wanted List of transportation safety improvements on January 13, calling it a **"road map from lessons learned to lives saved."** *read more…*

► ELD Mandate's Anti-Harassment Provisions and When They Take Effect

The **final version** of the **U.S. DOT's rule** to **mandate** the use of **electronic logging devices,** published in **early** December, **maintained** the **major anti-harassment provisions** included in **FMCSA's** March 2014-published **ELD mandate proposal.** *read more…*

► FMCSA Issues Rule Proposal to Tie Safety Rating Directly to Inspections, Violations

The Federal Motor Carrier Safety Administration announced **Jan. 15** a **rulemaking proposal** designed to update **FMCSA's** safety **rating methodology** by **integrating** on-road **safety data** from **inspections,** along with the **results** of **carrier investigations** and **crash reports,** to determine a **motor carrier's** overall **safety fitness** on a **monthly updated basis.** *read more…*

► US Mining Deaths Dropped To New Lows In 2015

Work-related accidents claimed 28 miners' lives, preliminary data shows

Preliminary **data released** by the U.S. Department of Labor's **Mine Safety and Health Administration** indicate that **28 miners died** in 2015 in **work-related accidents** at the **nation's mines,** down from **45** in **2014.** *read more…*

► Three Coal Mining Deaths in 19 Days are 'Troubling,' says MSHA chief

Assistant Secretary of Labor for Mine Safety and Health Joseph A. Main issued the following statement regarding the first three coal mining deaths of 2016: *read more…*

► OSHA's Exposure Limits are Dangerously Out of Date

As **industrial hygienist** Dan Markiewicz wrote in his **"Managing Best Practices"** column recently, *"You can't rely on old information. Most of OSHA's PELs (Permissible Exposure Limits) are based on 1968 TLVs (Threshold Limit Values), with some of the TLVs developed decades earlier. You're naïve if you only rely on PELs and TLVs for health protection and risk assessment."* *read more…*

Make MJS Safety your "GO TO" Resource in 2016

Check here each month for a current class schedule!

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

Just Some Of The Courses Offered Include:

~PEC SafeLandUSA Basic Orientation
~OSHA 10 Hour General Industry
~OSHA 30 Hour General Industry
~NUCA Confined Space
~TEEX H2S Operator Training- Awareness
~Respirator: Medical Evaluation & Fit Testing
~Hazard Communication – GHS Training
~Teens & Trucks Safety
~1st Aid/CPR Course- American Heart Association or Medic 1st

~PEC Core Compliance
~OSHA 10 Hour Construction
~OSHA 30 Hour Construction
~NUCA Competent Person for Excavation & Trenching
~TEEX Operator Level Training
~DOT Hazmat Training
~MSHA Sand & Gravel Training
~Fall Protection for the Competent Person
~"HEAT" related training

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

Schedule of classes February 2016: ●*TRAINING CENTER – 246 BASHER DRIVE #1, JOHNSTOWN, CO 80534* ●
Safeland: Feb 1, 8, 17, 25
First Aid/CPR/AED / BLOODBORNE PATHOGENS: Feb 18, 8 a.m.
    (We offer both MEDIC FIRST AID & AMERICAN HEART ASSOCIATION)
TEEX H2S Operator Training - Awareness: Feb 18, 1 p.m.
► **Need any of these classes in Spanish? Contact carriejordan@mjssafety.com to schedule today** ◄
Go to the "UPCOMING EVENTS" page at www.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 Mike at 303-881-2409

NOW OFFERING — 4 CLASS PACKAGE DEAL — $450
●Safeland Basic Orientation   ●Hydrogen Sulfide Awareness
●First Aid/CPR   ●OSHA 10 Hour for General Industry or Construction
Regular total cost for these 4 classes $531
ALSO OFFERING — FIT TESTING — JOHNSTOWN CENTER
AND NOW
●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 Virtual University - More courses have been added…check it out!

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

ALL COURSES ARE AVAILABLE ONLINE AT www.mjssafety.com

**To order
First Aid
& other
Safety Supplies
visit
www.mjssafety.com
or call
Carrie 720-203-4948
or Mike
303-881-2409**

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

~ MANY COURSES ARE ALSO AVAILABLE IN SPANISH ~

FOR ADDITIONAL INFORMATION CALL
MJS SAFETY
CARRIE – 720-203-4948
MIKE – 303-881-2409

Need Help With
■ISNETworld
■PEC/Premier
■PICS
■BROWZ

CALL US!!!

Prepare for 2016 with 2015 OSHA Stats

To **start off** the **New Year,** we wanted to take a **moment** to look at the **top 10** Occupational Safety and Health Administration's (OSHA) **violations** for **2015.** As you put **together** your **safety plan** for **2016,** this list is a **powerful reminder** about where to **focus awareness** and **training efforts** in order to **avoid** these kinds of **accidents** and **incidents,** and their **associated fines,** in the **coming year.**

Top 10 "serious" violations, fiscal year 2015

	STANDARD	TOTAL VIOLATIONS
1	Fall Protection (1926.501)	6,173
2	Scaffolding (1926.451)	4,281
3	Hazard Communication (1910.1200)	3,180
4	Lockout/Tagout (1910.147)	2,739
5	Ladders (1926.1053)	2,512
6	Respiratory Protection (1910.134)	2,250
7	Machine Guarding (1910.212)	2,242
8	Powered Industrial Trucks (1910.178)	2,182
9	Electrical – Wiring Methods (1910.305)	1,976
10	Electrical – General Requirements (1910.303)	1,557

*Data current as of Oct. 8, 2015

Top 10 "willful" violations, fiscal year 2015

	STANDARD	TOTAL VIOLATIONS
1	Fall Protection (1926.501)	161
2	Asbestos (1926.1101)	47
3	Excavations (1926.652)	44
4	Scaffolding (1926.451)	38
5	Lockout/Tagout (1910.147)	37
6	Machine Guarding (1910.212)	35
7	Permit-Required Confined Spaces (1910.146)	22
8	Specific Excavation Requirements (1926.651)	12
9	Fall Protection – Steel Erection (1926.760)	11
10	Respiratory Protection (1910.134), Occupational Noise Exposure (1910.95) and Bloodborne Pathogens (1910.1030)	10

*Data current as of Oct. 8, 2015

A *"serious" violation* is defined by OSHA as "one in which there is substantial probability that death or serious physical harm could result, and the employer knew or should have known of the hazard."

OSHA defines a *"willful" violation* as one "committed with an intentional disregard of, or plain indifference to the requirements of the Occupational Safety and Health Act."

TO SEE A FULL EXPLANATION OF EACH STANDARD, VISIT THE OSHA REGULATIONS (STANDARDS - 29 CFR) WEBPAGE

The Opioid Overdose Epidemic and the Workplace

Last week, the **Centers for Disease Control and Prevention** released **troubling statistics** on the **growing epidemic** of drug and **opioid overdose deaths** in the **United States.** The o**rigins** of this epidemic **have been linked** to **prescription opioids.** While it is **unknown** how many **drug** and **opioid overdose deaths** are a**ssociated** with **workplace injuries** and **illnesses,** it is clear that this **national epidemic** is **impacting** workers and **employers.**

A **May 2014 NIOSH** blog noted that **injured workers** are **frequently treated** with **powerful prescription drugs.** The **blog reported** on studies **demonstrating** that narcotic**s** account for **25%** of **prescription costs** in workers' **compensation systems** and that those **costs** are **rising.**

An **important avenue** for **combating prescription drug abuse** are **guidelines** that **health care providers** can use to **offer safer** and **more effective** pain treatment. **NIOSH's** sister agency at the **Centers for Disease Control and Prevention,** the **National Center for Injury Prevention and Control** (NCIPC), released draft opioid prescribing guidelines and invited **public comment** through **January 13, 2016.**

In addition to **work injuries** and **illnesses** being the reason **opioids** are **prescribed** in the **first place,** there are **other ways** in which this **epidemic** is undoubtedly **impacting workers** and **employers.** The use of **prescription opioids** may **impact** the **ability** of a person to **return** to **work,** and **ultimately** can **negatively affect** their livelihood. If workers are **under the influence** of **opioids** while they are at **work,** they are likely to be at **increased risk** for **injury.** For workers in **safety sensitive jobs,** such as **transportation** and **operators** of **heavy equipment,** there will be **increased risks** for **catastrophic** events that **impact** many besides the **worker.**

NIOSH remains **committed** to **primary prevention** of **occupational injuries** and **illnesses** as our **primary focus.** We **recognize** the **impact** of the current **opioid overdose epidemic** on the **workplace,** and have **compiled resources** that may be useful for **workers,** employers, **health care providers,** and other **stakeholders** on a new topic page. We also **believe** that the NIOSH Center for Workers' Compensation Studies provides a venue for research that can help inform interventions through workers' compensation systems.

NIOSH welcomes suggestions for additional resources that we might include on our Prescription Drug Overdose Prevention webpage and relevant research that might be addressed through the **NIOSH Centers for Workers' Compensation Studies.**
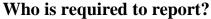
Report a Fatality or Severe Injury

▪ *All employers are required to notify OSHA when an employee is killed on the job or suffers a work-related hospitalization, amputation, or loss of an eye.*

▪ *A fatality must be reported within 8 hours.*

▪ *An in-patient hospitalization, amputation, or eye loss must be reported within 24 hours.*

To Make a Report

► Call the nearest OSHA office.

► Call the OSHA 24-hour hotline at **1-800-321-6742**.

► Report online

Be prepared to supply:
Business name;
names of employees affected;
location and time of the incident;
brief description of the incident;
contact person and phone number.

Who is required to report?

All employers under OSHA jurisdiction must report these incidents to OSHA, even employers who are exempt from routinely keeping OSHA records due to company size or industry.

If the Area Office is closed, may I report the incident by leaving a message on OSHA's answering machine, faxing the Area Office, or sending an e-mail?

No, if the Area Office is closed, you must report the fatality, in-patient hospitalization, amputation, or loss of an eye using the 800 number (1-800-321-6742).

How does OSHA define "in-patient hospitalization"?

OSHA defines in-patient hospitalization as a formal admission to the in-patient service of a hospital or clinic for care or treatment. Treatment in an Emergency Room only is not reportable.

How does OSHA define "amputation"?

An amputation is the traumatic loss of all or part of a limb or other external body part. This would include fingertip amputations with or without bone loss; medical amputations resulting from irreparable damage; and amputations of body parts that have since been reattached. If and when there is a health care professional's diagnosis available, the employer should rely on that diagnosis.

Who should report a fatality or in-patient hospitalization of a temporary worker?

Similar to the requirements in section 1904.31 for recording injuries and illnesses, the employer that provides the day-to-day supervision of the worker must report to OSHA any work-related incident resulting in a fatality, in-patient hospitalization, amputation or loss of an eye.

What if the fatality, in-patient hospitalization, amputation, or loss of an eye does not occur during or right after the work-related incident?

If a fatality occurs within 30 days of the work-related incident, or if an in-patient hospitalization, amputation, or loss of an eye occurs within 24 hours of the work-related incident, then you must report the event to OSHA.

Under what circumstances am I not required to report an incident?

Employers do not have to report an event if it: Resulted from a motor vehicle accident on a public street or highway (except in a construction work zone); Occurred on a commercial or public transportation system, such as airplane or bus; Involved hospitalization for diagnostic testing or observation only.

What if I am in a state not covered by federal OSHA?

Many states operate their own occupational safety and health programs for private sector and/or state and local government workers. Reporting requirements may vary by state, although all states must have or be in the process of developing requirements that are at least as effective as OSHA's. Refer to the status of reporting requirements in these states. For more information, visit the Office of State Programs' webpage.

Top 10 Causes and Direct Costs of the Most Disabling U.S. Workplace Injuries

Whether you are a **small business owner** or director of **EHS** at a **large corporation,** you know the **importance** of **safety.** It's **important** not only to **workers** and their **families** and **production schedules;** it also is **important** to the **bottom line.**

Nothing **illustrates** that **point** better than the **Liberty Mutual Workplace Safety Index,** which ranks the **top 10 causes** of **disabling workplace injuries.**

Non-fatal **injuries requiring** at **least six days away** from work c**ost** U.S. businesses **$61.88 billion per year** in direct **workers' compensation costs** according to the **2016 index.** The **top 10 serious,** disabling, **non-fatal workplace injuries** or **accidents** account for **82.5 percent** of that total – **$51.06 billion** of the **total cost burden.**

1. **Overexertion involving outside sources ranked first among the leading causes of disabling injury -** includes injuries related to lifting, pushing, pulling, holding, carrying or throwing objects - $15.08 billion in direct costs – accounting for 24.4% of the overall national burden.
2. **Falls on same level ranked second** - $10.17 billion - accounting for 16.4% of the total injury burden.
3. **Falls to a lower level ranked third** - $5.4 billion - 8.7% of the total injury burden.
4. **Struck by object or equipment ranked fourth** - $5.31 billion - 8.6% of the total injury burden.
5. **Other exertions or bodily reactions ranked fifth** - $4.15 billion - 6.7% of the total injury burden.

These top five injury causes accounted for 64.8 percent of the total cost burden. The remaining five injury causes combined accounted for 17.7 percent of the total direct cost of disabling injuries.

6. **Roadway incidents involving motorized land vehicle;**
7. **Slip or trip without fall;**
8. **Caught in/compressed by equipment or objects;**
9. **Struck against objects or equipment; and**
10. **Repetitive motions involving micro-tasks.**

The Liberty Mutual Workplace Safety Index is developed based on information from Liberty Mutual, the U.S. Bureau of Labor Statistics (BLS), and the National Academy of Social Insurance. Liberty Mutual researchers examine BLS injury data to determine which events caused employees to miss six or more days of work and then rank those events by total workers compensation costs. The 2016 Liberty Mutual Workplace Safety Index is based on 2013 injury data. Based on release date changes, this year's index is titled 2016 Liberty Mutual Workplace Safety Index and does not represent a break in the series. Due to a new BLS coding system implemented in 2011, the latest index series (2013, 2014, 2016) is not directly comparable to the prior series (2000 − 2012).

Construction Association Urges 13 Steps for Worker Safety

The **Associated General Contractors** of **America** (AGC) is **urging commercial construction** firms to act on **13 specific steps** to **further improve** workplace **safety**—in response to an **increase** in the number of **construction fatalities.**

"As new, **relatively inexperienced workers** come on board, it is becoming **increasingly clear** that we need to **do more** as an **industry** to make sure these **workers** do **not harm** themselves or their **co-workers,"** says **AGC national spokesman** Brian Turmail. He **adds** that the **goal** of the new **recommendations** is to ensure that **every worker** safely **returns** to his or her **family** at the end of the **shift.**

Although the **recommendations** are **geared** toward **construction workers,** they offer **valuable information** for companies, **organizations,** safety managers and **supervisors** across a variety of **industries.** Some of these **recommendations** apply to **senior managers,** while others can be **acted upon** by **supervisors.**

Here are the 13 specific steps to improve construction worker safety:

1. Establish a buddy system for all new hires: *During orientation, assign experienced workers to serve as new hires' safety sponsors. After 30 days, the supervisor and sponsor should evaluate a new hire's application of training and understanding of how to perform assigned tasks safely. Both must sign off that the worker is ready to work safely without a buddy, or that the buddy process continues until the new worker has proven he or she can work safely.*

2. Hold safety orientation sessions for all new hires, including temporary workers: *Require every new hire, from full-time to temporary, to complete a safety orientation before being allowed to work on a project. It should include showing workers photographs depicting common and not-so-common hazards, such as lightning and weather, which trainees are then quizzed to recognize. The orientation should include interactive hazard recognition and group discussion on controls. The orientation process must cover company policies, procedures and principles relating to work rules and conduct. It must also include a verification of competency in the skill or craft the worker was hired to perform.*

3. Ensure managers and supervisors have the appropriate leadership and effective communication skills critical to instill safety culture and concepts into the workforce: *All personnel in supervisory or managerial positions shall complete initial management training so they can learn effective leadership and communication skills. This training and continuing leadership education should be an essential element of individual development plans for those in leadership positions. These skills are essential toward helping workers embrace an effective safety culture, including grasping and implementing appropriate safety concepts and procedures.*

4. Institute two separate pre-task hazard analysis training programs: *Create distinct pre-task hazard analysis training programs—one for the crew and one specifically designed for first-line supervision. These programs will help workers operate safely, and train supervisors to effectively fulfill their obligation to ensure workers are operating safely at all times.*

5. Hold monthly lunch and learn safety training programs: *Organize and host monthly safety lunch and learns, including 30-minute presentations from craft workers on pre-determined safety topics. These sessions will ensure that workers learn from their peers.*

6. Require all forepersons and/or superintendents to attend leadership in safety excellence certification courses: *Project leaders such as forepersons and superintendents are critical to the success of the day-to-day performance and implementation of a company's safety program. Providing them with the necessary skills to effectively communicate the mission is critical to this success.*

7. Hold targeted safety training to address all safety incidents: *Identify safety incidents and details. Quickly follow up by communicating targeted messages designed to address specific safety hazards involved, to avoid similar future incidents. The message can be communicated in bulletins, emails, team meetings, formal training or other appropriate forums.*

8. Make sure all training and materials are in the language of the entire workforce: *Workforces may include workers with limited English skills. Offer safety training in English and other languages as the need arises.*

9. Train your trainers: *Provide train-the-trainer instruction to all personnel responsible for training others. Retaining "science of teaching" consultants to train the trainers on basic instructional skills and/or to develop in-house programs can greatly improve train-the-trainer programs.*

10. Create worker-specific pocket safety guides for every task they are assigned: *Laborers may get just one guide for the scope of their task, while others, such as equipment operators, may need several. Guides must be kept on their person and produced upon a request from a supervisor. Workers are required to verbally explain the safe way to do their key assigned tasks, and during morning meetings, workers should be called upon to lead these meetings using their pocket guides.*

11. Establish craft-specific safety mentoring programs: *Schedule monthly mentorship meetings where crafts of varying tenure meet to help one another understand and discuss safety-related procedures, processes and lessons learned. At the ends of these meetings, the craft workers will summarize the results and share them with senior management to identify areas that may require additional focus.*

12. Issue easy-to-read badges that identify each worker's level of training and certification for operating equipment: *Badges are issued to all workers on a project, regardless of whether they work for a general contractor or a subcontractor. Badges allow everyone on a project to be aware of every worker's training and certification level, so they can be assigned appropriate tasks.*

13. Issue all workers a stop-work card and authorize them to temporarily halt construction activity on a project if they identify a legitimate safety hazard: *Make it clear to all workers that there are no repercussions for using these stop-work cards.*

Hiring young workers? Ensure you are **meeting OSHA requirements.**

Use this **worker orientation checklist** to **ensure** that you are **covering** all the **necessary bases** in **protecting** your **young employees.**

Providing safety training isn't **enough.** If you **don't document** that **training** you could be in **big trouble.**

Bevy of Rulemaking Activity Expected Soon, Including Speed Limiter Mandate, Apnea Pre-Rule and CDL Clearinghouse

*T*he *Department* of *Transportation*, in its *monthly regulatory update*, gave its *first update* since *November* on a *rulemaking* to *require speed limiters* on *heavy trucks*, now *projecting* the rule to be *published* in *February. The proposed rule*, a *joint effort* from *FMCSA* and another *DOT agency*, has been *stuck* in the *White House's Office* of *Management* and *Budget* since *May 2015.*

The *DOT* now *projects* the *rule* that would *mandate* use of *speed limiters* on *heavy trucks* to be *published* Feb. 15. This rule *could require governors* on all *trucks* weighing *over 27,000 pounds.*

A *rulemaking* to *implement minimum standards* for training *entry-level truckers* is projected to be *published Feb. 9*, according to the *agency's report.* The rule will *flesh out* minimum *standards* for training *truck operators*, likely including *behind-the-wheel* training *requirements* and *more.*

A *Final Rule* to *implement* a *CDL Drug* and *Alcohol Clearinghouse* is *projected* to be *published* in *February*, too. The *rule* will *establish* a *database* of *CDL holders* that have *failed* or refused a *drug test* and *requires carriers* to upload this *information* to *FMCSA* at least *annually.* It would also *require carriers* to query the *database* when *hiring drivers.*

The *DOT* also *projects* a *pre-rule dealing* with *sleep apnea* to be *published Jan. 29. The pre-rule* would *allow for data collection* on how many *truck operators* have *obstructive sleep apnea* and what *impact* a *sleep apnea rule* could have on the *industry*.

CVSA Reveals 2015 Operation Safe Driver Week Results

*O*n January 5, the **Commercial Vehicle Safety Alliance** (CVSA) released **results** of the **2015 Operation Safe Driver Week** that was **conducted** October 18-24, 2015.

The **data shows** that **law enforcement** officers pulled over **21,012 commercial motor vehicle** (CMV) **drivers** and **passenger vehicle drivers** during the event. In addition, **19,480 North American Standard Roadside Inspections** were conducted by **CVSA-certified inspectors** on commercial **drivers** and **vehicles**.

Officers found that **non-commercial motor vehicle** (*passenger vehicle*) drivers **speed** significantly more than **commercial motor vehicle** (*CMV*) **drivers.** Passenger **vehicle** drivers were **issued** a warning or **citation** for **speeding** 27.3 percent of the time, **versus 9.3 percent** for **CMV drivers.**

The top five warnings and citations issued to CMV drivers were:
1. Size and weight
2. Speeding
3. Failure to use a seatbelt while operating a CMV
4. Failure to obey traffic control device
5. Using a handheld phone

The top five warnings and citations issued to non-CMV (passenger vehicle) drivers were:
1. Speeding
2. Failure to use a seatbelt
3. Failure to obey traffic control device
4. Following too closely
5. Improper lane change

See a detailed comparison of the 2015 and 2014 numbers.

NTSB UNVEILS 2016 LIST OF MOST-WANTED SAFETY IMPROVEMENTS

The National Transportation Safety Board (NTSAB) unveiled its 2016 Most Wanted List of transportation safety improvements on January 13, calling it a **"road map from lessons learned to lives saved."** The list focuses on 10 broad safety improvements on which the NTSB has made recommendations that have not yet been implemented.

According to the NTSB, several items on the list demonstrate how technology could help in saving lives, preventing accidents, and lessening the number and severity of injuries from accidents. For example, the list calls for promoting both the availability of collision avoidance technology in highway vehicles, and the completion of rail safety initiatives to prevent accidents. The list also calls for strengthening occupant protection in all modes of transportation, including laws mandating primary enforcement of seatbelt use, and age-appropriate child restraints.

The NTSB reports that twenty years ago it issued its first recommendation on the use of technology to prevent rear-end collisions. The agency says the implementation of this technology could significantly reduce motor vehicle crashes - the leading cause of death and injuries in transportation. Although federal regulators have made progress toward including such technologies in the 5-star safety rating on new vehicles, the NTSB advocates including such new technologies as standard equipment on all new highway vehicles - including commercial vehicles - just as airbags and seatbelts are now standard equipment.

According to the agency, distraction (especially from portable electronic devices) and fatigue continue to be serious safety issues in all modes of transportation, and the NTSB's 2016 Most Wanted List addresses these concerns. The list also notes that undiagnosed and untreated medical conditions have caused or contributed to accidents and calls for operators and regulators to require medical fitness for duty.

The NTSB states that impairment is also an issue in all modes of transportation. The agency has recommended lowering the legal limit on blood alcohol content to .05 to reduce deaths and injuries on highways. However, drugs other than alcohol can also impair drivers and operators of other types of vehicles - whether these drugs are recreational, over-the-counter, or prescription.

All of these most wanted transportation safety improvements are the result of the NTSB accident investigations. According to the agency, its most powerful tool to learn safety lessons from accidents is data recorders. Thus, the list calls for their increased use in all modes of transportation.

ELD Mandate's Anti-Harassment Provisions and When They Take Effect

The **final version** of the **U.S. DOT's rule** to **mandate** the use of **electronic logging devices,** published in **early** December, **maintained** the **major anti-harassment provisions** included in **FMCSA's** March 2014-published **ELD mandate proposal.**

The **measures** fleshed out in the **rule** come, at **least in part,** in **response** to a **2012 court ruling** that **concluded FMCSA failed** to include **adequate safeguards** in its 2010-issued **ELD mandate** to protect **truck operators** from **harassment** from carriers **via ELDs** (*then called EOBRs*). The court **also vacated** the rule because of it, sending it **back** to the **DOT's drawing board.**

The **new mandate,** the **compliance date** for which is **Dec. 18, 2017,** devotes a **quarter** of its **key components** to **harassment prevention** measures and **implements penalties** for carriers that **violate** those **measures.**

In the **new** rule, **FMCSA defines harassment** and **explicitly prohibits** it, institutes **safeguards against** it, and **spells out** a process by which **drivers** can **file complaints** over **ELD harassment.**

Also, the **harassment safeguards** don't necessarily **take effect** on the Dec. 18, 2017, **ELD compliance date.** They **instead** take effect when **use** of an **ELD begins,** even if that's **before** the **December 2017** compliance **date.**

Harassment definition/prohibition

FMCSA, in the final **ELD rule,** defines **harassment** as *"an action by a motor carrier toward a driver employed by the motor carrier (including an independent contractor while in the course of operating a commercial motor vehicle on behalf of the motor carrier) involving the use of information available to the motor carrier through an ELD, or through other technology used in combination with, and not separable from an ELD, that the motor carrier knew, or should have known, would result in the driver violating"* the Hours regulation and the Ill or Fatigued Operator regulation.

On that **definition, FMCSA** bases this **line** in its **rule:** *"No motor carrier may harass a driver."*

In **plain language,** what the **two mean** is **carriers** are **prohibited** from using a **logging device** or **information received** from a **logging device** to push a **truck operator** to drive when he or she is **out of hours,** tired or **sick** or when the **driver** does **not think** he or she can **safely operate** due to **weather** or **road conditions.**

For a **carrier** to be **assessed** a penalty, the driver in question must **commit** an **"underlying" hours** of **service violation,** the rule says. If **no hours regulations** are **broken,** however, the agency could **pursue penalties** against the **carrier** under the broader **anti-coercion rule** published by **FMCSA** in **November** — if an **investigation** shows the **carrier** also **violated** the coercion rule.

The **penalty assigned** to a **harassment** instance will be **based on** the **underlying hours** of **service violation,** if one is **committed.**

Harassment instances may also see **enforcement intervention** from the **Occupational Safety** and **Health Administration,** under the **Department** of **Labor,** which can **pursue separate action** from **FMCSA.**

Anti-harassment safeguards instituted by the ELD mandate

The **key steps** the **agency** takes in the 2015-issued ELD rule to **protect drivers** from **harassment** include:

(1) requiring the devices to have a mute function,

(2) protecting records of duty status from manipulative edits and

(3) limiting location tracking.

Mute functionality: Required mute functionality alleviates one of the chief complaints that derailed the 2010 rule: Fleets using ELDs' related functionality for messaging or alerts to interrupt drivers' off-duty rest periods.

If drivers are using a device that can make audible signals or noises, the rule requires the device to have the ability to either automatically enter a muted mode when put in a sleeper berth setting or have the functionality to allow a driver to turn the volume off.

Editing rights: Though the rule permits edits by drivers and carriers to be made, it also requires the devices' original record to be maintained, as well as requiring all users to have a unique login ID, so that edits can be tracked and annotations kept transparent.

All edits, even if made by a carrier, must be approved by a driver before being added to the record of duty status, according to the rule. All edits must also include an annotation, a minimum of four characters, explaining the edit.

Location tracking: The rule does not require compliant devices to track drivers or vehicles in real time. According to the rule, the devices are only required to provide an approximate device location — within a 1-mile radius — during on-duty driving periods. FMCSA says limiting location tracking to "reduced proximities" aids in protecting truckers' privacy and helps safeguard against harassment from carriers.

FMCSA Issues Rule Proposal to Tie Safety Rating Directly to Inspections, Violations

The **Federal Motor Carrier Safety Administration** announced **Jan. 15** a **rulemaking proposal** designed to update **FMCSA's** safety **rating methodology** by **integrating** on-road **safety data** from **inspections**, along with the **results** of **carrier investigations** and **crash reports**, to determine a **motor carrier's** overall **safety fitness** on a **monthly updated basis.**

The proposed **Safety Fitness Determination** (SFD) **rule** would **replace** the current **three-tier federal rating system** of "**Satisfactory, Conditional and Unsatisfactory**" for federally **regulated commercial** motor carriers (in place since 1982) with a **single determination** of "**Unfit**"**,** which would **require** the carrier to either **improve** its **operations** or **shut down.**

"Using all **available information** to **achieve** more timely **assessments** will allow us to **better identify** unsafe companies and get them **off the road,**" said **U.S. Transportation Secretary** Anthony Foxx.

"**Carriers** that we **identify** as "**Unfit**" to **operate** will be **removed** from our **roadways** until they **improve,**" said **FMCSA** Acting **Administrator** Scott Darling.

Once in **place,** the **agency believes** the **rule** will **enable** it to **properly assess** the **safety fitness** of approximately **75,000 companies** a **month.** By **comparison,** the agency is **only able** to **investigate** 15,000 **motor carriers** annually under the **current system,** with less than **half** of those **companies** even receiving a **safety rating.**

Two data sources underlie the **methodology** the **agency proposes** to use: **Investigation results** and **roadside inspection/violation data,** the latter the **same data** compiled and **measured** by the **CSA Safety Measurement System.** The **FAST Act** highway bill **last December** required the **SMS' analytical measurements** to be **pulled** from **public view** after **widespread,** long-running **criticism.**

Under the **SFD,** five of the same seven **Behavior Analysis and Safety Improvement Categories** (BASICs) (*excluding the Crash Indicator and the Controlled Substances/Alcohol categories*) **will be analyzed** for **potential failure.** A carrier's **on-highway performance** in relation to a **fixed failure** threshold established in the **rule** for those **five BASICs** — **Hours of Service Compliance,** Driver Fitness, **Unsafe Driving,** Vehicle Maintenance and **Hazardous Materials** — **will be considered.**

Failure of **any two** will **result** in an "**Unfit**" rating.

When **assessing** roadside **inspection data results,** the **proposal** uses a **threshold** of **11 inspections** with **violations** in a single **BASIC** within a **24-month period** as its **data-minimum standard.** Until that **level** of activity is **reached** in at least **one BASIC,** a motor carrier will **not be eligible** to be i**dentified** as "**Unfit**"**.** If a carrier's **individual performance** meets or **exceeds** the **failure standards** in the **rule,** it would then **fail** that **BASIC**.

The **failure standard** will be **fixed** by the **eventual final rule,** the agency **proposes.** A **carrier's status** in **relation** to that **fixed measure** would not be **affected** by other **carriers' performance,** a key **difference** from the percentile scores computed within the **CSA SMS** in each **BASIC.**

The "**Unfit**" determination, **ultimately,** is **proposed** to occur with a **carrier's failure** of any **two BASICs,** whether as a **result** of **roadside violations,** investigatory findings, or a **combination of both.**

Another **similarity** to the **SMS** is the **SFD's weighting** of **violations** according to **how recently** they occurred. **FMCSA's** expected **utilization** of **elements** of its **SMS** within this rule **brought allegations** of **impending violations** of the **FAST Act** highway bill's **CSA reform** and other **provisions** from a **coalition** of **motor carrier groups.** The **FAST Act's language** relative to **safety fitness determinations,** the **coalition argues,** among **other things** requires that **FMCSA** conduct the **Congressionally-required review** of, and make **recommended changes** to, the **CSA SMS** before **releasing** any **SFD rule.**

Asked **directly** about these **charges** again **upon release** of the **SFD rule, FMCSA** spokesman Duane Debruyne **declined** the **opportunity** to **comment.**

Also, as reported, **motor carrier CSA SMS BASIC scores,** as a **matter** of **public consumption,** are **no longer part** of the **SMS** — **as a result** of another **FAST Act requirement** — available **only privately.**

FMCSA estimates that under this **proposal,** fewer than **300 motor carriers** each year would be **proposed** as "**Unfit**" solely **as a result** of **on-road safety violations.** Further, the **agency's analysis** has shown that the **carriers identified** through this **on-road safety data** exhibit **crash rates** of almost **four times** the **national average.**

Examine the **proposed rule's full textual details** at this [link.](#)

But **in addition** to roadside data, the **new SFD** would also **draw** on **traditional compliance review-type investigations** for **failure** determinations in each **BASIC.** Failure of a **BASIC** based on **either crash data** (*the Crash Indicator BASIC*) or **compliance** with **drug and alcohol requirements** (*Controlled Substances/Alcohol*) would **only occur** after a **follow-on comprehensive investigation.**

The **proposal's** Jan. 21st **publication** in the **Federal Register** marked the **advent** of a **60-day public comment period** on the **provisions. FMCSA** will be **providing** a **reply comment period** allowing for an **additional 30 days** for **commenters** to **respond** to **initial commentary.**

See [more detailed information](#) on **FMCSA's** proposal.

The agency has established an online [SFD calculator](#) through which motor carriers can test how the rule would affect them with their own data.

US Mining Deaths Dropped To New Lows In 2015

Work-related accidents claimed 28 miners' lives, preliminary data shows

Preliminary **data released** by the U.S. Department of Labor's **Mine Safety and Health Administration** indicate that **28 miners died** in 2015 in **work-related accidents** at the **nation's mines,** down from **45** in **2014.** The figure **represents** the **lowest number** of **mining deaths** ever **recorded** and the **first year** that mining deaths **dropped** below **30.**

Eleven of the **28 deaths** occurred in **coal mines** – three in **Pennsylvania;** two each in **Kentucky,** Illinois and **West Virginia;** and one each in **Alabama** and Virginia. The **leading causes** were powered **haulage** and machinery **accidents,** which accounted for **six deaths.**

Of the **17 deaths** in metal and **nonmetal mining,** Nevada led with **four,** followed by **Missouri** with two, and **one each** in California, **Florida,** Georgia, Iowa, **Massachusetts,** Nebraska, New Hampshire, North Dakota, **Ohio,** Pennsylvania and **Virginia.** The **leading cause** of death in these **mines** was **machinery accidents,** which led to **five deaths,** followed by **falling materials** that killed **four miners.**

"While **coal mine closures** had some **effect** on the **historic low number** of mining deaths, actions by **MSHA** and the **mining industry** to improve **mine safety** have been a **major factor,"** said Joseph A. Main, **assistant secretary** of labor for **mine safety** and health.

Main **credited** the **agency's use** of **strategic enforcement tools,** including **special impact** inspections that **quickly address** problem mines and the retooled **Pattern of Violations** procedure that **targets mines** with chronic violations, along with **compliance assistance,** training and **outreach efforts** to the **mining industry.**

In the **metal** and **nonmetal mining** sector, **MSHA** took a **proactive approach** to reverse the **upward trend** of mining deaths that **began** in **October 2013.** On the **heels** of a **particularly deadly day** in August 2015, when **three miners died** at **three separate** operations, **MSHA** collaborated with **stakeholders** to launch one of its **most aggressive** enforcement and **outreach efforts** across the **country.** For the **next 134 days,** no **metal** and **nonmetal mining deaths** occurred in the **nation's mines,** passing the **previous record** in 2010 of **82 consecutive days** without a **mining fatality.**

"While **record-low numbers** have been **achieved,** we are **mindful** that things could **change** in a **heartbeat** if we let down **our guard.** There is **still much more** to be done to **ensure** that miners **go home** after **every shift,** safe and **healthy,"** said Main.

Three Coal Mining Deaths in 19 Days are 'Troubling,' says MSHA chief

Assistant Secretary of Labor for Mine Safety and Health Joseph A. Main issued the following statement regarding the first three coal mining deaths of 2016:

"In just the first three weeks of 2016, and after the safest year in mining history, the coal industry has experienced three fatalities in three separate mining accidents, the highest number of coal accidents to occur in the same time period since January 2006.
• On Jan. 4, a 53-year-old miner was killed when he became entangled in a moving underground conveyer in West Virginia.
• On Jan. 16, a 31-year-old miner was killed when falling material pinned the victim to the mine floor in Pennsylvania.
• On Jan. 19, a 36-year-old miner was killed when he became pinned between a continuous mining machine and a coal rib in Kentucky.

"In light of declining coal market conditions, we all need to be mindful that effective safety and health protections that safeguard our nation's coal miners need to be in place every day at every mine in the country.
"All miners deserve to work their shifts and return home at the end of the day, safe and healthy. To that end, the Mine Safety and Health Administration plans to ramp up its targeted enforcement, education and outreach efforts to respond to the troubling number of mining fatalities that have occurred so far this year. Today, MSHA widely disseminated to industry stakeholders an alert on these deaths, emphasizing the need for continued vigilance in miner safety and health."

OSHA's Exposure Limits are Dangerously Out of Date

As **industrial hygienist** Dan Markiewicz wrote in his **"Managing Best Practices"** column recently, *"You can't rely on old information. Most of OSHA's PELs (Permissible Exposure Limits) are based on 1968 TLVs (Threshold Limit Values), with some of the TLVs developed decades earlier. You're naïve if you only rely on PELs and TLVs for health protection and risk assessment."*

Dan's **far** from **alone** with his **warning.**

OSHA chief Dr. David Michaels is on **record** saying: **"American workers** use tens of **thousands** of **chemicals** every day. While many of these **chemicals** are known or **suspected** of being **harmful,** only a **small number** are regulated in the **workplace.** New chemicals are **being introduced** into **worksites** every year, and we are **struggling** to **keep pace** with the **potential hazards.** As a **result,** forty years after the **creation** of **OSHA,** thousands of **American workers** are still **becoming ill** and dying from **exposure** to **hazardous chemicals."**

"Updating the **PELs** has been the **number one public policy issue** for the **association** since the **mid-1990s** and for the **first time,** we are seeing some real **movement** from the **government sector** on this **issue,"** says **American Industrial Hygiene Association** President Barbara J. Dawson, CIH, CSP. **"AIHA** encourages **employers,** workers and other **interested parties** to look closely at **OSHA's** list of **alternate exposure limits** because they will **bring us** closer to **updating** the **PELs."**

PELs are **regulations** that establish the **acceptable amount** or **concentration** of a substance in the **air** in the **workplace.** They are **intended** to **protect workers** from **adverse health effects** related to **hazardous chemical exposure.**

Of the **thousands** of **chemicals** used in **workplaces, OSHA** has **PELs** for **less** than **500.** Many of the **PELs** have **not been updated** since **1971,** and current **scientific data** suggests that, in **many instances,** the outdated **PELs** are **not sufficiently protective** of **worker health.**

Says **OSHA** boss Dr. Michaels: **"Many** of these **PELs** are **dangerously** out of date and do **not adequately protect** workers. Past **efforts** to update our **PELs** have **largely** been **unsuccessful.** Since 1971, **OSHA** has **successfully** established or **updated PELs** for only about **30 chemicals.** We have **issued** only **one new exposure limit** since the **year 2000.** As a **result,** many workers are **currently** being **exposed** to levels of **chemicals** that are **legal,** but **not safe."**

In 1989, **OSHA** attempted to **update** or **set new PELS** for **more** than **350 chemicals** in a **single rulemaking.** Although **OSHA** presented **analyses** of the **risks associated** with these **chemicals,** as well as the **feasibility** and **economic impacts,** the **analyses** were not as **detailed** as those for **individual** rulemakings. The **entire rulemaking** was **ultimately vacated** by the **court.**

Compounding the **problem** with **PELs** is that **no one knows** how many **chemicals** are in **commerce** now *(the American Chemistry Council estimates there are approximately 8,300 chemicals in commerce in significant amounts)* or **how many** of those **chemicals** are **hazardous.**

Still hanging on to PELS

Still, **according** to an **exclusive ISHN subscriber survey,** the **overwhelming** majority of **safety** and **industrial hygiene personnel** use **OSHA's PELs** to **monitor hazardous substances,** and as **part** of their **overall** employee **respiratory protection efforts** (*85 percent*). About **one-third** (*35 percent*) of the **survey respondents** use **ACGIH® Threshold Limit Values** (*TLVs*), which are **voluntary** and **updated regularly,** and about **one-quarter** (*24* percent) use their **own internal company exposure limits** – almost **always limits** more **stringent** than **OSHA's.**

Going beyond mere compliance

OSHA's Annotated Occupational Exposure Limits tables provides **accurate,** up-to-date **chemical information** to **employers** who want to voluntarily **adopt newer,** more **protective workplace exposure limits** for those **chemicals** that are **covered** by outdated **OSHA exposure standards.** It is one of **two web-based resources** offered by the **agency.** The other is a **toolkit** to **assist employers** and **workers** in **identifying** and **substituting safer chemicals** to use in **place** of **more hazardous ones.**

OSHA will **continue** to **enforce** its **mandatory PELs.** But **according** to Dr. Michaels, these **new tables offer** a **better,** more **up to date resource** on **safe exposure limits.** The **OSHA** chief **advises employers** who **want to ensure** that their **workplaces** are **safe** and their **workers** are **protected,** to utilize the **occupational exposure limits** on the **annotated tables.** He **asserts simply complying** with **OSHA's** antiquated **PELs will not guarantee** that **workers** will be **safe** – although, **ironically,** employers will **not be cited** if **exposures** are within **PEL ranges.**

The **annotated tables** provide **side-by-side comparisons** of **OSHA PELs** with **recommended exposure limits** of the **National Institute for Occupational Safety and Health** (NIOSH) and the **American Conference of Governmental Industrial Hygienists,** as well as the **California Division of Occupational Safety and Health's** required **PELs.**

What's the alternative?

OSHA has **called** for **information** on **alternatives** to the **old PELs. Alternative approaches** to **chemical management** include these **six examples:**

1. *Informed substitution to safer chemicals and processes: Uses the most current information on hazardous chemicals to inform employers about safer substances and non-chemical alternatives.*
2. *Hazard Communication and GHS: Uses the HazCom 2012 classification system as a tool for determining hazard classes and controls.*
3. *Health hazard banding: Organizes chemicals with similar toxicities into hazard groups, or bands. Hazard banding combined with information on worker exposures may be a useful risk assessment tool when toxicity data are not available.*
4. *Occupational exposure banding: A method proposed by NIOSH for assessing chemicals; the method sorts chemicals into five bands, with each band representing a different hazard level.*
5. *Control Banding: Uses hazard statements from labels and safety data sheets as guidelines for establishing chemical controls.*
6. *Task-based exposure assessment and control: Categorizes job tasks in terms of exposure potential and implements controls to reduce exposures to safe levels.*

Don't delay

OSHA has been **working** on **updating** its **PELs** for more than a **quarter century** without **success.** It will **still be years** before any **possible alternative approaches** are **approved** and **finalized** through **formal rulemaking.** Meanwhile, many of the **country's largest corporations** with **industrial hygiene departments** and **expertise** have set their own, **stricter in-house exposure limits.** According to **ISHN's survey,** about **one in four** companies **make use** of their **own internal limits.** One **reason** to do this is to **lower your risk** of **liability. OSHA's** current **PELs** will **protect you** from **agency enforcement,** but with **EU, NIOSH,** and many **Cal/OSHA exposure limits stricter** and **publicly accessible,** you may be in a **legally vulnerable position.**