



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

OSHA / CONSTRUCTION NEWS SUMMARY

► **OSHA Penalties**

Below are the maximum penalty amounts, with the annual adjustment for inflation, that may be assessed after Jan. 15, 2020. [read more...](#)

► **Walking-Working Surfaces, Personal Protective Equipment (Fall Protection Systems), and Special Industries (Electric Power Generation, Transmission, and Distribution); Corrections**

SUMMARY: OSHA has issued corrections to the Walking-Working Surfaces, Personal Protective Equipment, and Special Industries standards. [read more...](#)

► **Work-related Injuries More Common Among Temporary Workers**

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► **UPDATED NATIONAL EMPHASIS PROGRAM ON AMPUTATIONS**

The U.S. Department of Labor's **Occupational Safety and Health Administration (OSHA)** recently issued an updated **National Emphasis Program (NEP)** to focus agency inspections on amputation hazards in manufacturing industries. [read more...](#)

► **Death by Trench**

The business and human costs of trench-collapse fatalities in the United States

When it comes to construction fatalities, trench deaths can be easy to overlook. [read more...](#)

— **Colo. Contractor Charged with Manslaughter in Trench Collapse Death** [read more...](#)

— **OSHA Inspectors Save Workers Just Before Colo. Trench Collapse** [read more...](#)



TRANSPORTATION NEWS SUMMARY

► **FMCSA Drug Clearinghouse Goes Live, Connectivity Issues Fixed... Now Fully Operational**

The **Federal Motor Carrier Safety Administration's** long-awaited **Drug and Alcohol Clearinghouse** experienced connectivity issues during its opening days, but is now fully operational. [read more...](#)



6 Things You Need to Know About the New Drug and Alcohol Clearinghouse [read more...](#)

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



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

▶ **What Happens After a Stroke or Seizure**

One of the most complex medical issues for commercial drivers is a neurological condition. [read more...](#)

▶ **Red Light Running Deaths Hit 10-Year High**

More than two people are killed every day on U.S. roads by impatient and reckless drivers blowing through red lights ... [read more...](#)



▶ **EPA Visit to Navajo Shippers in Denver Highlights Cleaner Trucks Initiative and Colorado Trucking Community's Leadership on Clean Air**

On Thursday, January 16, U.S. Environmental Protection Agency (EPA) Regional Administrator ... highlighted state-of-the-art clean truck technologies and a national effort to update emissions standards from heavy-duty vehicles and engines. [read more...](#)

▶ **FMCSA Pumps the Brakes on Entry-Level Driver Training Rule, Punts Compliance Date to Feb. 2022**

The Federal Motor Carrier Safety Administration is delaying the implementation of a federal rule establishing, for the first time, training standards for entry-level truck drivers. [read more...](#)

▶ **Rise in Truck Crashes, Large Payouts, Expected to Boost Insurance Renewal Rates This Year Beware and prepare.**

Tractor-trailer insurance rates saw an uptick this year, brought on by a rise in truck crashes and massive settlements and judgements. [read more...](#)

MSHA NEWS SUMMARY

▶ **Fatal U.S. Mining Accidents Dropped in 2019**

There were 24 mining fatalities in the United States in 2019, the U.S. Department of Labor's Mine Safety and Health Administration (MSHA) reported. [read more...](#)



▶ **MSHA Issues Lockout/Tagout Alert**

The Mine Safety and Health Administration (MSHA) has issued a Lockout/Tagout alert. Electricity has killed three people in the mining industry since Aug. 7. [read more...](#)

MONTHLY SAFETY & HEALTH TIP NEWS SUMMARY

▶ **Why Is First Aid Important?**

There will be a time in your life when you wish you had a first aid kit close by — at work, or at home, or in your car, wherever you might be. [read more...](#)



▶ **OSHA's FREE WORKPLACE POSTER**

Job Safety and Health: It's the Law

♦ What is the OSHA poster and why do I need it? [read more...](#)



MJS SAFETY TRAINING ANNOUNCEMENT

MJS SAFETY LLC is proud to announce the addition of NCCER and O.Q.S.G. to our OQ Services.

MJS SAFETY LLC is an "Authorized Assessment Center" for Proctoring and Testing for ENERGY worldnet, Inc., as well as OQ Performance Evaluation Services.

MJS SAFETY LLC continues to offer Proctor and Testing Services, as well as Operator Qualification [OQ] Performance Evaluations under the "EnergyU" system – a service of Midwest ENERGY Association – as well as Veriforce.

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

MJS SAFETY LLC is also available to assist with the Knowledge Based Training for these tasks. Knowledge-based training is designed to help personnel successfully pass the OQ Knowledge Based Testing as well as the Performance Evaluation process.

The Operator Qualification Rule – commonly referred to as the "OQ Rule" addressed in Title 49 of the Code of Federal [US DOT] regulations, mandates that individuals who perform "Covered Tasks" on covered pipeline facilities be qualified through the Operator Qualification Process.

The intent of the OQ rule is to ensure protection of both pipeline personnel and the public at large. Providing individuals with the necessary knowledge and skills is an essential element of any Operator and Contractor OQ plan.

Acceptable requirements for qualification are determined by the operator. The quality and validity of data related to OQ training, testing, and performance is critical to meet these requirements.

If we can be of assistance with these types of services for your company, please [call to schedule](#).

MJS SAFETY — your “GO TO” Safety Resource in 2020

“SAFETY STARTS WITH YOU”

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

Just Some of the Courses Offered Include:

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

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

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

- PEC Safeland Basic Orientation: February 10, 20, 28; 8 – 4:30
- First Aid/CPR/AED/BLOODBORNE PATHOGENS (We offer MEDIC FIRST AID): February 12, 27; 8 – noon
- TEEK H2S Operator Training – Awareness (ANSI Z390-2017 Course): February 12, 27; 12:30 – 4:30
- Confined Space Training - Attendant, Supervisor, Competent Person & Entrant [NUCA Course]: February 25
- Confined Space Rescuer: February 26
(Students must complete the Confined Space course to be eligible for the Rescue Course)
- DOT Hazardous Materials Training: February 19

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

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

Go To mjssafety.com FOR UP-TO-DATE CLASS LISTINGS
To sign up for one of these classes, or inquire about scheduling a different class
Call Carrie at 720-203-4948 or Jeremy at 720-203-6325 or Mike at 303-881-2409

— FEATURED TRAINING PROGRAMS —

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

— ALSO OFFERING —

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

Unable to attend a class?

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

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

~ **MANY COURSES ARE ALSO AVAILABLE IN SPANISH** ~

FOR ADDITIONAL INFORMATION CALL

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OSHA / CONSTRUCTION

OSHA Penalties

Below are the maximum penalty amounts, with the annual adjustment for inflation, that may be assessed after Jan. 15, 2020.

Type of Violation	Penalty
Serious Other-Than-Serious Posting Requirements	\$13,494 per violation
Failure to Abate	\$13,494 per day beyond the abatement date
Willful or Repeated	\$134,937 per violation

State Plan States

States that operate their own [Occupational Safety and Health Plans](#) are required to adopt maximum penalty levels that are at least as effective as Federal OSHA's.

For More Assistance

OSHA offers a variety of options for employers looking for compliance assistance.

The [On-Site Consultation Program](#) provides professional, high-quality, individualized assistance to small businesses at no cost.

See the detailed [Federal Register Notice](#) for Adjustments to Civil Monetary Penalty Amounts.

MJS Safety WOULD LIKE TO REMIND

YOU TO GIVE US A CALL TO SCHEDULE AN ON-SITE CONSULTATION FOR COMPLIANCE ASSISTANCE. WE'RE HERE TO HELP YOU AVOID VIOLATION PENALTIES!

Walking-Working Surfaces, Personal Protective Equipment (Fall Protection Systems), and Special Industries (Electric Power Generation, Transmission, and Distribution); Corrections

Federal Register Publication Date:

12/17/2019 ([pdf of entire notice](#) – including illustrations)

Effective Date for the Corrections to the Standards:

12/17/2019

SUMMARY:

OSHA has issued corrections to the Walking-Working Surfaces, Personal Protective Equipment, and Special Industries standards.

SUPPLEMENTARY INFORMATION:

I. Summary and Explanation

Ladders (§ 1910.23)

Current § 1910.23(d)(4) requires employers to ensure that the side rails of through or side-step ladders extend 42 inches above the top of the access level or landing platform served by the ladder. As stated in the preamble to the final rule, the agency intended workers to have sufficient handholds “at least 42 inches” above the highest level on which they will step when reaching the access level ([81 FR 82494](#), 82542).

OSHA is correcting this error by revising § 1910.23(d)(4) to state that 42 inches is the minimum—not the exact—measurement for fixed ladder side rail extensions.

Stairways (§ 1910.25)

Current § 1910.25(a) sets forth the types of stairways covered under this section. These include all stairways except for stairs serving floating roof tanks, stairs on scaffolds, stairs designed into machines or equipment, and stairs on self-propelled motorized equipment. In this correction, OSHA is clarifying that articulated stairs, which were excluded from coverage by the rule adopted in 1971 ([36 FR 10474](#)), as well as by the rule proposed in 1990 ([55 FR 13360](#), 13363), are not covered by the current standard. In the 2010 proposed rule and the 2016 final rule, OSHA referred to these stairs as “stairs serving floating roof tanks” but did not call them “articulated stairs.” ([75 FR 28862](#), 28882; 81 FR at 82555). OSHA is now clarifying that all articulated stairs used in general industry, not just those serving floating roof tanks, remain excluded from coverage by § 1910.25.

By not including this exception, the standard would require all articulated stairs that do not serve floating roof tanks, including those that were previously excluded, to meet the requirements set forth in § 1910.25. OSHA did not intend for any types of articulated stairs to be covered by the standard.

The figure at [29 CFR 1910.25\(c\)](#) immediately after Table D-1 does not have a title even though it is referred to as Figure D-8 in § 1910.25(c)(4). The title of the figure was included in the proposed rule (75 FR at 29137) but mistakenly left out of the final rule (81 FR at 82989). This document adds the missing title to the figure: “Figure D-8—Dimensions of Standard Stairs”.

Scaffolds and Rope Descent Systems (§ 1910.27)

In paragraph (b)(1)(i) of § 1910.27, **OSHA** is correcting a typographical error in the metric parenthetical for 5,000 pounds. The parenthetical currently states the metric equivalent to 5,000 pounds is 268 kg. The correct metric equivalent is 2,268 kg.

Fall Protection Systems and Falling Object Protection—Criteria and Practices (§ 1910.29)

OSHA is correcting Figure D-11 to include labels identifying the top rail and end post in the top diagram of the figure. The words “top rail” and “end post” were mistakenly omitted when the final rule was published in the *Federal Register* (81 FR at 82995).

Personal Fall Protection Systems (§ 1910.140)

Current § 1910.140(c)(8) requires D-rings, snaphooks, and carabiners to be proof tested to a minimum tensile load of 3,600 pounds without cracking, breaking, or incurring permanent deformation. The provision also requires the gate strength of snaphooks and carabiners to be proof tested to 3,600 pounds in all directions.

In the November 18, 2016, final rule (81 FR at 82653), **OSHA** intended to be consistent with the ANSI/ASSE Z359.12-2009 consensus standard, *Connecting Components for Personal Fall Arrest Systems*. That consensus standard requires snaphooks, carabiners, and D-rings (and other hardware) to be proof tested to 3,600 pounds (ANSI/ASSE Z359.12-2009, section 3.1.1.6) and requires the gate of snaphooks and carabiners to be capable of withstanding a minimum load of 3,600 pounds without the gate separating from the

nose of the snaphook or carabiner body by more than 0.125 inches (ANSI/ASSE Z359.12-2009, section 3.1.1.3).

OSHA correctly added the first requirement to the 2016 final rule—namely the requirement that snaphooks, carabiners, and D-rings be proof tested to 3,600 pounds. When it came to the gate strength requirement, **OSHA** mistakenly added the requirement that the gate strength of snaphooks and carabiners be proof tested to 3,600 pounds in all directions instead of adding the intended requirement that the gate of snaphooks and carabiners be *capable* of withstanding a minimum load of 3,600 pounds without the gate separating from the nose of the snaphook or carabiner body by more than 0.125 inches. It should also be noted that proof testing of the gates of snaphooks and carabiners could be destructive to the equipment, rendering them unsafe for workers in the field.

In this document, **OSHA** is correcting the gate strength provision to be consistent with the national consensus standard, as originally intended, and as stated in letters of interpretation to the *National Association of Tower Erectors* (NATE) (see [response](#) to question 5) and the *International Safety Equipment Association* (ISEA) (see [response](#) to question 1).

Electric Power Generation, Transmission, and Distribution (§ 1910.269)

Section 1910.269(h)(2) contains references to ladder standards (§§ 1910.25(d)(2)(i) and (iii) and 1910.26(c)(3)(iii)) that are not the correct references. **OSHA** is revising § 1910.269(h)(2) by replacing the incorrect references with the correct references, which are § 1910.23(c)(4) and (9).

Work-related Injuries More Common Among Temporary Workers

Temporary workers had a higher rate of workers’ compensation claims for injuries than did permanent workers, according to a large study in Ohio published in the [American Journal of Industrial Medicine](#).

As the nature of work continues to change, temporary workers are becoming more common in many workplaces. These workers may work for staffing agencies or be on-call, contract, or freelance workers.

This study looked at more than 1.3 million injury claims to the Ohio Bureau

of Workers’ Compensation during 2001 to 2013. Of these claims, 45,046 were from temporary employment agency workers. The rate of injury in this group of workers was 11.6 per 100 workers, compared to a rate of 4.9 among permanent workers.

In terms of age, injured temporary workers were about 5 years younger than permanent workers. In addition, temporary workers had worked for the organization for a shorter time before the injury occurred.

Nearly half as many temporary workers as permanent workers had worked for the organization for 3 months or longer when the injury caused them to miss 8 or more workdays.

These findings are comparable to other workers’ compensation studies in Washington and Illinois. Although the findings can help inform efforts to protect temporary workers from injury, more research is needed to understand how to prevent these injuries from occurring.

RECOMMENDED PRACTICES, PROTECTING TEMPORARY WORKERS

OSHA and NIOSH recommend the following practices to staffing agencies and host employers so that they may better protect temporary workers through mutual cooperation and collaboration.

[Recommended Practices, Protecting Temporary WorkersCdc-pdf](#)

UPDATED NATIONAL EMPHASIS PROGRAM ON AMPUTATIONS

The U.S. Department of Labor's **Occupational Safety and Health Administration (OSHA)** recently issued an updated **National Emphasis Program (NEP)** to focus **agency inspections** on **amputation hazards** in manufacturing **industries**. This **directive updates** the **2015 NEP** on **amputations**.

The **NEP targets** industrial and **manufacturing workplaces** where employees are **injured** by **unguarded** or improperly **guarded machinery** and equipment. **NEPs focus** agency **enforcement activity** and **do not create** any new **obligation** to **employers**.

The updated NEP:

- *Revises targeting methodology to include data from amputation reporting requirements;*
- *Revises coding requirements for amputation inspections in the OSHA Information System; and*
- *Adds new appendices on amputations targeting methodology and **North American Industry Classification System** codes.*

Inspections under this **emphasis program** will begin **March 10, 2020**, after a **90 day outreach** period. During this time, **OSHA** will continue to **respond** to **complaints**, referrals, **hospitalizations** and fatalities. **Enforcement activities** will begin after the **outreach period** and remain in **effect** until **canceled**.

What are National Emphasis Programs?

National Emphasis Programs (NEPs) are **temporary programs** that focus **OSHA's resources** on **particular hazards** and high-hazard **industries**. Existing and **potential new emphasis programs** are **developed** and evaluated using **inspection data**, injury and **illness data**, **National Institute for Occupational Safety and Health (NIOSH)** reports, **peer-reviewed literature**, analysis of **inspection findings**, and other available **information sources**. **NEPs** are **conducted** across the **country** in **each region**.

Current National Emphasis Programs

- [Amputations in Manufacturing Industries](#)
- [Combustible Dust](#)
- [Hexavalent Chromium](#)
- [Lead](#)
- [Primary Metal Industries](#)
- [PSM Covered Chemical Facilities](#)
- [Shipbreaking](#)
- [Trenching and Excavation](#)

Current Local Emphasis Programs in Region VIII

(conducted in the jurisdiction of the area offices in parenthesis)

- [Aircraft Support and Maintenance](#) (Englewood, CO)
- [Scrap and Recycling Industries](#) (Englewood, CO)
- [Asbestos Abatement Industry](#) (Englewood, CO)
- [Wood Manufacturing and Processing Facilities](#) (Billings, MT)

Additional Current Regional Emphasis Programs

- [Automotive Services](#)
- [Beverage Manufacturing](#)
- [Grain Handling Facilities](#)
- [Roadway Work Zone Activities](#)
- [Oil and Gas Industry](#)
- [Workplace Violence Hazards at Residential Intellectual and Developmental Disability Facilities](#)
- [Fall Hazards in Construction](#)

Death by Trench

The business and human costs of trench-collapse fatalities in the United States

When it comes to **construction fatalities**, trench deaths can be **easy to overlook**. The number of deaths – 49 in the **2016 to 2017 time period** – falls **far below** the top **four culprits** of **construction deaths**: falls, **electrocution**, struck by object and **caught-in/between**.

But **trench fatalities** usually mean **prolonged efforts** to recover a victim, **exacerbating** the experience for **co-workers** and family. They **require advanced** expertise by **first responders**. Many times, even **partially buried victims** don't survive. And they deal a **staggering loss** to families and to **crews** that sometimes have **worked together** for years.

Then there's the **cost**. **OSHA** fines are just the **beginning**. A trench **death stops work**, increases workers' **compensation costs**, hikes your **insurance premiums** and makes you **ineligible** to work for **certain owners**. And all of that is **before** the **legal fees**.

Most **frustrating** of all: **every death** could have been **prevented** by using **methods** that have been **known for decades**.

In **preparing** their **report**, the editors of **Equipment World** wanted to **examine** the **human side** of the **trench fatality statistics**. They talked to survivors, **co-workers**, victims' families and **first responders**. They heard from **victims' advocates** and lawyers ... and asked **trench protection experts** and contractors for **best practices**.

The deaths **delivered** immeasurable loss. They **all began** with the **decision** that a **trench** didn't **require worker** protection.



Colo. Contractor Charged with Manslaughter in Trench Collapse Death

A Colorado general contractor faces a charge of felony manslaughter after a worker died from a trench collapse in 2018.

The victim was working in an 8-foot-deep trench in Granby, Colorado, attaching a copper pipe to a main line when the trench collapsed and buried him June 14, 2018, according to the **U.S. Occupational Safety and Health Administration**. **OSHA** said he died of severe head trauma and excessive loss of blood.

Rescue personnel arrived at 10 a.m. and had uncovered and removed the victim by 10:17, but he was unresponsive to CPR and later was pronounced dead at a nearby hospital, according to a local news report.

OSHA later cited the residential and commercial general contractor of Avon, Colorado, with one willful violation—**OSHA's** most severe penalty—for not having a protective system to prevent cave-in, as well as 12 serious violations and one other violation. The serious violations included no worker hard hat or eye or face protection, no ladder or other means to exit the trench, working in a trench with accumulated water, materials and equipment were closer than 2 feet from the edge of the trench and the trench had not been inspected by a competent person before workers entered.

OSHA fined the contractor a total of \$57,463 on December 6, 2018. The contractor contested the penalty, which was later reduced to \$40,000.

The contractor was charged August 22, 2019 with manslaughter after the **OSHA** investigation and an investigation by the Granby Police Department. The District Attorney decided to file criminal charges in the case against the victim's employer.

"The thorough investigative work of both the Granby Police Department and **OSHA** revealed facts supporting a criminal prosecution for this jobsite death," the D.A. said in a statement to a local news outlet. "Worksite safety regulations exist for a reason, and here, we are reminded just how important it is for employers to adhere to those regulations."

The decision to charge the contractor is not typical; however, in the past five years, prosecutors have been more willing to press charges in trench collapse cases because they are preventable if proper protective measures are put in place. Criminal cases in trench collapses have occurred in Santa Clara County, California (2015), New York City (2016), Ventura County, California (2017), Boston (2017), Seattle (2018), two cases in Pennsylvania (2018), and Morris County, New Jersey (2018).

According to a GoFundMe page set up for the victim, he was a husband and father. "He was kind, funny, smart, hard-working and the sole provider for his family that lives in Mexico," the fundraising page said. "We will miss him tremendously but will try to find solace in the knowledge that his spirit will remain long after his passing."

OSHA Inspectors Save Workers Just Before Colo. Trench Collapse

Inspectors for **OSHA** were at a jobsite in Cascade, Colorado, earlier this year when they saw three workers in an unprotected, 13-foot-deep trench.

The inspectors ordered the workers out of the trench. Soon after they exited, **OSHA** reports, one of the walls collapsed.

"In this instance, the inspectors' quick action removed workers from what could have been a tragic event," said **OSHA** Englewood Area Director David Nelson. "Employers are required to install adequate cave-in protective systems before allowing employees to enter a trench or excavation."

The Alamosa company was recently issued \$92,819 in proposed penalties for the June 26, 2019 incident, according to **OSHA**.

OSHA reported the following violations: no cave-in protection, \$79,559; employees exposed to struck-by hazards while working beneath a loaded excavator bucket, \$6,630; and a spoil pile was within 2 feet of the trench, \$6,630.

The company is contesting the violations.

Click [here](#) to follow links to more stories in the report.

FMCSA Drug Clearinghouse Goes Live, Connectivity Issues Fixed... Now Fully Operational

The **Federal Motor Carrier Safety Administration's** long-awaited **Drug and Alcohol Clearinghouse** experienced connectivity issues during its opening days, but is **now fully operational**.

The **Clearinghouse**, a **database** containing information on **commercial driver license holders' drug and alcohol violations**, went live **Jan. 6**. Carriers, **state driver licensing agencies** and **law enforcement officials** use the **Clearinghouse** to check a **CDL holder's violations**.

The **Clearinghouse** rule **requires drivers** to register and **consent** to carriers **checking their record for failed drug tests** or **refusals to take drug tests**. Employers are **required** to check the **Clearinghouse** as part of **pre-employment driver investigations** and **screen** each of their currently **employed CDL drivers** at least **once a year**.

Abigail Potter, **manager of safety** and occupational health policy for **American Trucking Associations**, noted that **many users** were interested to **understand** how the **Clearinghouse** would look and **operate**, which likely **added** to the **level of traffic** the site received.

"The **rollout** with the **Clearinghouse** could've **gone a little bit better**," Potter said. "The **challenges** that happened were **definitely not** unexpected. **FMCSA** worked **very hard** to resolve the problems, and **every day** got a **little bit better**."

In December, **FMCSA** issued a **final rule** extending by **three years** the date by which **state driver licensing agencies** must **comply** with certain **Clearinghouse** rule **requirements**. The rulemaking delays the **compliance date** for the **requirement** that **states request information** from the **Clearinghouse** before **completing certain CDL transactions** until **Jan. 6, 2023**.

However, the rule **allows states** the option to **voluntarily query Clearinghouse** information **beginning Jan. 6, 2020**. They **may do** this by registering in the **Clearinghouse** as an **authorized user** and **logging in** to view a **driver's record**.

Potter said that the **"Level 10"** **frustration** people may have **felt** when trying to **access the Clearinghouse** during its **opening days** should have **dropped** to a level **"2 or a 3"** toward the **end of the week**. She also **acknowledged** that a **few technical hiccups** are common when a **large agency** deploys a **major website** and **encouraged people** to keep records of their **interactions with the site**.



6 Things You Need to Know About the New Drug and Alcohol Clearinghouse

The federal **Drug and Alcohol Clearinghouse** has finally **rolled out**, effective **Jan. 6th**. This **electronic database** will track **commercial driver's license holders** who have **tested positive for prohibited drug or alcohol use**, as well as **refusals to take required drug tests**, and other **drug and alcohol violations**. When a driver who has **been found to be in violation** completes the **required return-to-duty process**, this **information** will also be **recorded** in the **Clearinghouse**.

The **Clearinghouse** has long **been sought** as a way to keep **commercial drivers** who have **violated federal drug and alcohol rules** from **lying about those results** and simply **getting a job** with another **motor carrier**.

Recently, the **Federal Motor Carrier Safety Administration** announced it had **extended the compliance date** from **Jan. 6, 2020** to **Jan. 6, 2023** for when **state driver licensing agencies** must **request** information from the **Clearinghouse** before they **complete** certain **commercial driver's license transactions**. But the **original compliance date of Jan. 6, 2020**, remains in **place** for all other **requirements of the final rule** – there is **no delay in compliance** for **motor carriers**.



1. Fleets must start adding data to the clearinghouse this month

Effective Jan. 6, the rule requires employers and their service agents to populate the clearinghouse with:

- Their employees' DOT drug and alcohol violations under Part 382 of the Federal Motor Carrier Safety Regulations, and
- Verification of a CDL driver's completed steps in the DOT return-to-duty process.

Employers also must **now query** the **Clearinghouse** for required **information** for driver **hiring** and annual **requirements**.

The **database** will contain **violation information** that occurs **on or after Jan. 6, 2020**. So even if a **violation occurs on Jan. 5** and a driver is **disqualified**, that **doesn't go into the Clearinghouse**, notes David Osiecki, president, **Scopelitis Transportation Consulting**.

Those **required to register** for and use the **Clearinghouse** include **most commercial drivers**, their **employers**, **consortia/third-party administrators** used by carriers, **medical review officers**, **substance abuse professionals**, and **state driver licensing agencies**.

2. What data is submitted to the clearinghouse

Motor carriers must report **violations** of the **DOT Part 382 drug-testing regulations**, including **positive tests**, as well as **refusals to take drug or alcohol tests**. They also must report of **"actual knowledge" violations**, **negative return-to-duty test results**, and completion of **follow-up testing/plans/programs**.

Employers will have to **submit** a report of a **drug or alcohol program violation** by the close of the **third business day** following the **date** on which the **employer** obtained the **information**.

The **only information** allowed to be **added** to the **Clearinghouse** is **DOT-mandated drug or alcohol tests**. Additional tests, such as **hair testing** that **some fleets** are conducting **pre-employment**, may not be put into the **Clearinghouse**.

Records will remain in the **Clearinghouse** until **return-to-duty** is complete and **five years** have **passed** since the **violation**. (*After that, they won't be in the database, but **FMCSA** will keep them archived.*) Similarly, a **fleet** (or your **third-party service agent**) must **keep records** for a **minimum of five years**.

3. There are two types of Clearinghouse queries: full and limited

Full queries must be done at the **pre-employment stage**. The information **returned** by the **Clearinghouse** will **show** any violation of the **drug-testing** regulations in Part 382, as well as **return-to-duty** status once a **driver** has completed a **treatment program** following a **violation**.

Because the **Clearinghouse** will **not contain** a **full three years'** data until **2023**, motor carriers in the **meantime** still must check with a **driver's previous** employers to get **drug-testing information** for the **past three years**.

A **limited query** must be done at **least once a year** on each of a **carrier's drivers**. It essentially is **simply asking** if there is a record of this **driver** in the **database**. If there is, then the **carrier** must **convert** that into a full **query** to **find out** what that information is (*including getting the driver's permission.*) **Carriers** have **one year** to begin **running limited queries** on drivers **employed** before **Jan. 6, 2020**.

The **"query bundle"** an employer **purchases** from **FMCSA** will depend on the **number of queries** that need to be **conducted**. The **flat per-query** rate is **\$1.25**, for both **limited** and **full queries**.

There are customized **"bundles"** available to help **fit business** requirements. Osiecki **notes** that it must be the **motor carrier** who buys the **query plans**; a **third-party agency** cannot buy the **query bundle** and **bill** the **motor carrier** for it.

4. Drivers have to give consent for queries

Before the **carrier** can get the **information queried**, the **driver** has to **log** into the **Clearinghouse** and **give his** or **her consent** – every time there's a **full query** request for his or **her records**.

"The **industry** has asked for this **database** for a **lot of years** to close this **loophole**, but here's an **aspect** that could **create** some **real operational challenges**, or at least **slow down** the **hiring process**," says Osiecki. "Let's **face it**, some **drivers** will forget their **log-in credentials** – we've all **done that** – and it's going to **hang up** the **hiring process**."

Driver consent is also required for **limited queries**, but carriers can **add** that to **pre-employment** consent **paperwork** that's already **asking for** consent to **check things** such as their **criminal records** and **motor vehicle** records.

Companies that **offer driver** recruiting and **onboarding services** have been adding **features** to their **platforms** to make the **process easier** for **customers**. "The **Drug and Alcohol Clearinghouse** will **significantly improve** highway **safety** and is a welcomed, **much-needed**, and long **overdue** regulation for the **trucking industry**," said Jeremy Reymer, founder and CEO of **DriverReach**. "However, **carriers** will see a **drastic change** in **compliance-related** workflow, **ultimately complicating** the hiring process if **unprepared** for the **increased administrative** burden."

5. Fleets can use third-party services

Employers are allowed to **authorize service** agents to **report violations** and to **conduct queries** of the **Clearinghouse** on their **behalf**. Employers have to **register** in the **Clearinghouse** first. **Service agent** authorizations will be **required** as part of an **employer's registration** process. Designated **service agents** must register before **accessing** or reporting **information** to the **Clearinghouse**.

If you **change service agents** during the year, the **carrier** has only **10 days** to update that in the **Clearinghouse**.

6. Drivers need to know their rights and responsibilities

Even as **your company** or **safety department** is learning how to use the **Clearinghouse**, it's smart to **make sure** your **drivers** know their **responsibilities** and **rights**, as well.

If **drivers change** companies, they will **have to register** in order to **give permission** for the **motor carrier** to make **queries** of their **information**.

Section 382.601(b)(12) identifies what data will be **entered** into the **Clearinghouse** and **can be referenced** and **explained** to the **driver** at the **time of driver registration/application**.

Employers can **provide drivers** the following **best-practices training**:

- *An explanation of the inquiries performed by employers (Section 382.701);*
- *Driver procedures on signing up for access to the **Clearinghouse**;*
- *Information on how drivers may obtain a copy of their **Clearinghouse** records (Sections 382.707, 382.709);*
- *Procedures for correcting information in the database (Section 382.717);*
- *An awareness that state licensing authorities will have access to the database (Section 382.725); and*
- *Clarification on a driver's obligation to notify a current employer(s) (in writing) of DOT testing violations occurring under a different employer (Section 382.415).*

Instructional Technologies Inc. recently added **driver training** on the **Clearinghouse** to its **Pro-Tread online** training.

ITI Vice President Laura McMillan explains that **such training** is part of a **system** of **transparent** and proactive **driver communication** and **minimizes** the **potential spread** of inaccurate **information** among your **drivers**.

One point the lesson makes clear to **drivers** is that they have to **give permission** for people to **access** the **information**. "Of course, if **they refuse** to **allow access** that will **impact** their **employability**," McMillan says. "They have a **right** to **review** their **information**, and if they **find a discrepancy** or disagree with **records**, they can write to **FMCSA** and **dispute it** and potentially **correct** that **record**."

"It's a **regulation** and a **system** that's designed to **reduce** the **issue** of **drivers flipping** from one **company** to another," McMillan says. "It's **meant** to **catch people** who are trying to **game the system**, frankly. But on the **flip side**, it is **meant** to keep the **motoring public** safe, and for **drivers** who have **submitted** to drug and alcohol **treatment programs**, it **protects** them too."

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

The **Commercial Vehicle Safety Alliance's (CVSA) International Roadcheck** will take place **May 5-7**. **International Roadcheck** is a high-volume, high-visibility three-day enforcement initiative that highlights the importance of commercial motor vehicle safety through roadside inspections. Over that 72-hour period, commercial motor vehicle inspectors in jurisdictions throughout North America will conduct inspections on commercial motor vehicles and drivers.



Each year, **International Roadcheck** places special emphasis on a category of violations. This year's focus is on the **driver requirements** category of a roadside inspection. According to the U.S. **Federal Motor Carrier Safety Administration's (FMCSA) fiscal 2019 data** (as of Dec. 27, 2019), of the 3.36 million inspections conducted, 944,794 driver violations were discovered, of which 195,545 were out-of-service conditions.

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

During **International Roadcheck**, **CVSA** -certified **inspectors** primarily conduct the **North American Standard Level I Inspection**, a 37-step procedure that includes two main inspection categories: an examination of driver operating requirements and vehicle mechanical fitness. A third category, hazardous materials/dangerous goods, may also be part of a **Level I Inspection**. Depending on weather conditions, available resources or other factors, inspectors may opt to conduct the **Level II Walk-Around Driver/Vehicle Inspection**, **Level III Driver/Credential/Administrative Inspection** or **Level V Vehicle-Only Inspection**.

An inspector will start each inspection procedure by greeting, interviewing and preparing the driver. The inspector will collect and verify the driver's documents, identify the motor carrier, examine the driver's license or commercial driver's license, check record of duty status and review periodic inspection report(s). If applicable, the inspector will check the **Medical Examiner's Certificate**, **Skill Performance Evaluation Certificate** and the **driver's daily vehicle inspection report**. Inspectors will also check drivers for seat belt usage, illness, fatigue, and apparent alcohol and/or drug possession or impairment.

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

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

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

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

In the past, **International Roadcheck** usually took place during the first week of June. However, this year, **International Roadcheck** was moved up by one month, from June to May, when the weather may be more favorable for many jurisdictions.

"Announcing the dates of **International Roadcheck** has always been a deliberate, thoughtful and purposeful decision by the **Alliance**," said Sgt. Samis. "By announcing the dates in advance, we hope to remind motor carriers of the importance of proactive vehicle maintenance and remind drivers to be prepared for inspections and to always conduct **pre- and post-trip inspections**. We want every vehicle and driver inspected during this initiative to pass inspection with no violations."

Sgt. Samis added, "We're aware that some drivers opt to stay off roadways during the three days of **International Roadcheck**. Although there is certainly an increase in the number of inspections conducted during **International Roadcheck**, it's important to remember that inspections are conducted every day of the year. Inspectors will be inspecting commercial motor vehicles the day before **International Roadcheck** starts, the day after it ends, as well as **any other day** of the year."

International Roadcheck is the largest targeted enforcement program on commercial motor vehicles in the world, with approximately 17 trucks and buses inspected, on average, every minute in Canada, Mexico and the U.S. during a 72-hour period. Since its inception in 1988, more than 1.6 million roadside inspections have been conducted during **International Roadcheck** campaigns.

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

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

What Happens After a Stroke or Seizure



Source: Dr. Alexander E. Underwood
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One of the **most complex** medical issues for **commercial drivers** is a **neurological condition**. **Certified Medical Examiners** often have to **reach out** to the **Federal Motor Carrier Safety Administration** for **guidance** on **certifying drivers** who've had a **stroke**, ministroke or **seizure**.

Obviously, the **most important** issue is **whether** the driver will have a **sudden loss of consciousness** or a **sudden loss of ability** to control the **truck**. While **most circumstances** require a cautious **approach** that in **many cases** involve **lengthy waiting** periods, the **U.S. Department of Transportation** has agreed with **medical advisory** boards that **not all neurological conditions preclude** a driver from a **safe driving career**.

STROKES. Diabetes and **high blood pressure** (*hypertension*) are **significant** contributing **factors** to the **development** of strokes or **ministrokes**, known as **transient ischemic attacks** (*TIA*). It's no surprise that **commercial drivers** have an **above-average incidence** of **TIA**s and **strokes**, as they do with **hypertension** and **diabetes**.

If you **suffer** a stroke or **TIA** and are left with **permanent disabling** effects such as **paralysis**, **severe weakness** or **vision loss**, you **will not** be **certifiable** as a **commercial driver**. Otherwise, in the **majority** of cases, you will **be able** to resume your **driving career** if you're willing to **wait**.

After initial **recovery** from a stroke or **TIA**, you must **wait at least** a year before being **eligible** for a **medical certificate**. If you have a more **severe stroke** or **brain bleed** that involves a **middle cerebral** or **anterior cerebral artery**, guidance to **medical examiners** suggests waiting **five years**.

If you **pass** the medical exam, you **will be certified** for up to **one year** at a time. Before **taking the exam**:

- You will need clearance from your neurologist and supporting paperwork.
- You must be free of seizures and convulsions.
- You may be asked to complete an on-road driving evaluation comparable to what's given a new CDL applicant.

SEIZURES. It used to be that **anyone taking** anti-seizure **medication** for a **seizure disorder** was **automatically** medically **disqualified**. More recently, **FMCSA** has been able to **grant a waiver** for those taking **long-term antiseizure** medication. To qualify, you **must be seizure-free** with or without **medication** for eight **consecutive** years. If currently taking **medication**, you must be on the **same stable** medication regimen for at **least two years**.

Further, a **driver** with a history of **epilepsy** may be qualified **without a waiver** if **seizure-free** and **medication-free** for 10 years.

However, **many seizures** are not the **result of epilepsy** or another **seizure disorder**. If you have a **single episode** of a **non-epileptic seizure** or a **loss of consciousness** from an unknown **cause**, and the incident **did not require** anti-seizure **medication**, the rules are **much less stringent**.

The **decision** to certify you will be **left up to** the individual **examiner**, though **official guidance** is to wait at **least six months**. You may be **qualified** if there are **no further** seizures, no **antiseizure** medication is **required** and clearance is **provided** by a **neurologist**.

Another **circumstance** involves **suffering** a **single seizure** due to a **known cause**, such as a **high fever**, a drug reaction or **an infection**. In such a **case**, you may be **certified** with no specific **waiting period** if there are **no residual symptoms** and **neurology clearance** is **provided**.

Back in the Sept. 2019 MJS Safety newsletter we referenced a AAA study:

20 Killed on Colorado Roads from Drivers Running Red Lights

In a new analysis, AAA finds more than two people are killed every day in red light running crashes, including drivers, passengers, pedestrians and cyclists.

Red Light Running Deaths Hit 10-Year High



More than two people are killed every day on U.S. roads by impatient and reckless drivers blowing through red lights, according to new data analysis performed by the **AAA Foundation for Traffic Safety**. The [most recent crash data](#) available show that 939 people were killed in red light running crashes in 2017 – a 10-year high and a 28 percent increase since 2012. In Colorado, 20 people were killed by red light runners in 2017 – the *sixth highest rate*, per capita, in the country.

"Here's the bottom line: Drivers who decide to run a red light when they could have stopped safely are making a reckless choice that puts others in danger," said AAA Colorado spokesman Skyler McKinley. "The data is clear: **Red light running remains a significant traffic safety challenge, and lives are on the line.**"

According to the **AAA Foundation's** latest [Traffic Safety Culture Index](#), 85 percent of drivers believe red light running is "very dangerous" – *yet one in three say they blew through a red light within the past 30 days when they could have stopped safely.*

Strikingly, more than two in five drivers also say *they don't think they'd be stopped by police for running a red light.*

[Read the entire analysis](#) including

Tips for Motorists
Tips for Vulnerable Road Users
The Life you Save May be Your Own!

EPA Visit to Navajo Shippers in Denver Highlights Cleaner Trucks Initiative and Colorado Trucking Community's Leadership on Clean Air

On Thursday, January 16, **U.S. Environmental Protection Agency (EPA)** Regional Administrator Gregory Sopkin joined **Colorado Department of Transportation (CDOT)** Executive Director Shoshana Lew at the Navajo Shippers facility in Denver, Colorado, to highlight state-of-the-art clean truck technologies and a national effort to update emissions standards from heavy-duty vehicles and engines.

The goal of the **Cleaner Trucks Initiative** is to reduce nitrogen oxide emissions from heavy-duty trucks, which contributes to ozone and particulate matter pollution here in Colorado and across the nation. Significant efforts to reduce emissions from on-highway, heavy-duty engines are already being made by many leaders in Colorado's trucking industry, including **EPA SmartWay Partner**, Navajo Shippers.

EPA and **CDOT's** visit to Navajo Shippers highlights the exemplary work being done by the company, the **Colorado Board of Motor Carriers** and the overall Colorado trucking community to reduce emissions, improve fuel efficiency and improve air quality in our state's communities.

"EPA recently designated Denver and the Northern Front Range as a serious nonattainment area for ozone pollution, and we remain focused

on working together to reduce emissions from the many categories of sources that contribute to this problem," said **EPA** Regional Administrator Gregory Sopkin.

"We commend our partners at **CDPHE**, **CDOT** and Colorado's transportation industry for the progress they are making and look forward to their input as we seek to strengthen national standards for trucks and other heavy-duty vehicles and engines."

"The **Cleaner Trucks Initiative** showcases not only the further advancement of sustainability efforts related to the trucking industry, but the cooperative and collaborative efforts of the trucking industry working together with **EPA** and others to reduce emissions and improve air quality in our country" Troy Hill, President Hill Petroleum – Chairman of the Board **Colorado Motor Carriers Association**.

For more information: [Cleaner Trucks Initiative](#), [EPA SmartWay](#)

FMCSA Pumps the Brakes on Entry-Level Driver Training Rule, Punts Compliance Date to Feb. 2022

The **Federal Motor Carrier Safety Administration** is delaying the implementation of a federal rule establishing, for the first time, training standards for entry-level truck drivers.

The **Entry-Level Driver Training (ELDT)** rule was slated to take effect in just over a week — **Feb. 7, 2020**.

It will now take effect **Feb. 7, 2022**, with **FMCSA** preparing to file a notice in the **Federal Register** in the coming days to announce the new compliance date.

FMCSA said the delay is needed to further build out the needed IT infrastructure. "Following a careful review of the public comments regarding the **Entry-Level Training (ELDT)** rule, **FMCSA** is extending the rule's implementation for two years. This extension is reflective of the agency's continued efforts to develop a secure and effective electronic trainer provider registry for the new rule. The agency remains committed to making the implementation of the rule as efficient and effective as possible," **FMCSA** said in a statement.

The agency will accept public comments on the delay for **45 days** after it is published in the **Federal Register**.

The rule was finalized in early 2017, providing a three-year window before it took effect to allow **FMCSA**, trainers, fleets and states time to implement the necessary systems and procedures. The delay will give stakeholders two additional years to prepare

The rule only applies to **CDL** applicants who receive their licenses after the rule's effective date.

Required training in the rule – both classroom and behind-the-wheel driving – includes the basic operation of a vehicle, vehicle control systems and dashboard instruments, pre- and post-trip inspections, backing and docking, distracted driving, roadside inspections, hours of service, driver-whistleblower protections and procedures, and more.

The rule requires training to be completed by an **FMCSA -approved provider** from the **Training Provider Registry** established by the rule, which remains at this date a work in progress.

For fleets to provide training to entry-level drivers, they must be in the registry and comply with the rule's required curriculum.

Don Lefevre, head of the **Commercial Vehicle Training Association**, said the group is frustrated by the delay, noting that the rule is already years late on the statutory deadline set in 2012 by Congress, who called for the rule to be made final within three years. "The ball has been dropped," he said. But, he adds, "I feel like the leadership of **FMCSA** understands the significance of the rule, and I feel like they have a plan for moving forward."

Professional Truck Driver Institute (PTDI) Executive Director Tim Blum said training providers (including fleets) should use the extra time to ensure their programs comply with the rule. "I look at this as an opportunity for the schools to get ready," he said. "A lot don't understand it, and a lot don't even know about it. This is a period we can help people."

The lynchpin for **FMCSA**, ultimately, will be the **Training Provider Registry**, which requires any **CDL** training organization to register, self-certifying that their program is compliant with the rule.

Looking at that crucial portion of what the rule requires, "we suspected a few years ago, 'we're not sure the government is going to pull that off'" in time, said Laura McMillan, vice president of training for **Instructional Technologies, Inc. (ITI)**. McMillan added that since that time, she'd heard much about the difficulties/delays the government had experienced putting all of the technical pieces together, particularly as they relate to state agencies who are primary in the licensing process. With **FMCSA's** 2019 proposal to delay the two technical portions of the rule that essentially limited governments' ability to enforce it, "they received a lot of comments from state agencies that requested a full delay."

McMillan echoed Blum about schools' preparations, which her organization supports with its online-training modules that can fulfill the theory portions of the newly required testing, when the rule comes into play now in 2022. The **ELDT** rule, she said, mandates a professional certification, essentially, for any entry level **CDL** driver.

"In our conversations with clients and others in the industry," she said, "though they don't necessarily like the idea of new rules and regulations, everyone can agree that's really the right thing to do." And regardless of how long it will take for the technical systems to support the newly required training to stand up, "none of that's changing."



Rise in Truck Crashes, Large Payouts, Expected to Boost Insurance Renewal Rates This Year

Beware and prepare.

Tractor-trailer insurance rates saw an uptick this year, brought on by a rise in truck crashes and massive settlements and judgements.

The worst possible rate surge could come from Washington, D.C. where U.S. Rep. Matt Cartwright, D-Penn., 8th District, is sponsoring a bill (H.R. 3781) to raise the minimum liability coverage on semis from \$750,000 to \$4.5 million, a 500 percent jump that would put even more upward pressure on premiums.

Cartwright, an attorney with a history of suing trucking companies, has come under fire from watchdog group Foundation for Accountability and Civic Trust for proposing a bill that they say will benefit his family's law firm if signed into law.

While K.R. 3781 has not advanced since being introduced in July to the House Subcommittee on Highways and Transit, Cartwright's efforts are emblematic of an increasingly aggressive legal community that's eager to put trucking companies on trial and cash-in big time.

"The verdicts that are coming out — which we call in the industry, nuclear verdicts, the big ones — they are a derivative of the reptile area of attorneys," said Tommy Ruke, founder of the Motor Carrier Insurance Education Foundation.

Data-rich attorneys armed with CSA scores, truck logs and social media posts are convincing more and more juries to deliver huge verdicts.

"They're saying this motor carrier has a bad history so therefore you the jury have an obligation to punish this motor carrier for having a bad history, not just because of this crash," Ruke said.

Larger carriers with deeper pockets are targeted and juries have been responding with multi-million dollar judgements. As a result, carriers and insurers are more eager to settle out of court where the price of mediation has also been on the rise.

"No plaintiff's attorney is going to take a trial and go to a jury and get a \$91 million judgement against somebody with five trucks," Ruke explained. "There's just not enough dollars for that. The insurance company is going to pay the money and they're gonna run. But what's happening is the fear of those judgements is increasing all the offers at mediation time. And so, the average claim statistics I show, have gone from about a million to about two million dollars."

Like Ruke, Michael Nischan, vice-president of transportation and logistics risk control at EPIC, believes strongly in educating fleets on the ins and outs of insurance, particularly risk reduction. Now more than ever that means doing everything possible to reduce Compliance, Safety, Accountability (CSA) scores.

"Everybody needs to be educated so that everyone who is part of a solution can ensure that the company is compliant and safe," Nischan said. "They're doing everything they can to keep the scores low and

are therefore worthy of doing business with this insurance company and realizing decent premiums. But even if a company is performing well, we're going to see 20 to 30 percent increases and that is if you're doing well because of our environment."

While Nischan is more encouraged about gauging carriers under the proposed scoring method of Item Response Theory, he said that new approach will not help companies who have struggled with CSA scores in the past.

"We're going to see a change in that strategy (CSA) that's more effective in scoring motor carriers," Nischan explained. "Motor carriers that are not performing well under CSA right now, they're not going to do well at all under Item Response Theory. And again, CSA is not a regulation and Item Response Theory is not a regulation. It's just a means by which enforcement keeps up with performance of motor carriers and identifies them for enforcement interventions. That's on the horizon. That's going to happen. So, it's important that motor carriers take their performance very seriously. Again, they need to be obsessed with safety. Having partnerships with insurance firms will be critical as they collaborate to survive the storm."

Persons Killed in Crashes Involving Large Trucks, 2016-2018

Person Type		2016 Old Final*	2016 Amended Final*	2017	2018	Change (2017 and 2018)	% Change (2017 and 2018)
Occupants of Large Trucks	Single Vehicle	458	520	525	535	+10	+1.9%
	Multiple Vehicle	267	295	353	350	-3	-0.8%
	Total	725	815	878	885	+7	+0.8%
Other People	Other Vehicle Occupant	3,170	3,351	3,534	3,525	-9	-0.3%
	Nonoccupant	474	512	493	541	+48	+9.7%
	Total	3,644	3,863	4,027	4,066	+39	+1.0%
Total		4,369	4,678	4,905	4,951	+46	+0.9%

Source: FARS 2016-2017 Final File, 2018 ARF
*Amended due to changes to the 2016 FARS Final File to revise the light pickup truck classification.

Life in the fast lane

The total number of deaths in crashes involving large trucks increased slightly from 2017 to 2018, according to numbers released recently by the National Highway Traffic Safety Administration.

In its latest Traffic Safety Facts report released in November, the National Highway Traffic Safety Administration reported that the number of people involved in large truck crashes rose from 553,000 to 622,000, or 12.5 percent, in 2018 versus 2017.

The number of people killed rose .8 percent year-over-year from 878 in 2017 to 885 in 2018. However, injuries were down two percent in 2018 at 39,000 versus 40,000 in 2017. The vast majority of people involved in large truck accidents over those two years were not injured: 512,000 in 2017 and 582,000 in 2018.

Scores of personal injury attorneys stand at the ready with billboards, TV, radio and internet ads with catchy toll-free numbers and dramatic websites eager to sue the truck driver, the company that owns the truck, the truck manufacturer, the truck loader, the brake manufacturer and, if possible, the service company that handles the truck's maintenance following an accident.

It's become something of a thriving and lucrative industry that's motivated some unscrupulous drivers to purposely stomp on their brakes in front of a moving truck with the hopes of getting rear-ended so that they too might hire an attorney and collect huge sums of money for whiplash or other reported injuries. The cost of doing business can skyrocket and prove insurmountable for some carriers following a single accident.

“Extraordinarily **large insurance** claims — accidents that **include fatalities** — are probably the **single, biggest cause of failure** in '18. Everything else has **gone right** but you **hit somebody** and it blew past any and **all amounts of insurance** you had,” said Donald Broughton, principal & **managing partner** of Broughton Capital. “The **plaintiff's lawyer** sued your company, **your insurance**, and if the **insurance paid** the maximum they were **going to pay**, there was **still millions** of dollars in claims to be **satisfied**.”

A **Federal Motor Carrier Safety Administration** report that **found 70 percent of fatal crashes** involving a **large truck** and a **passenger vehicle** were **initiated** by the **actions** of, or were the **fault of**, passenger motorists.

“**Distracted driving** is a **huge problem**,” said Michael Nischan, vice-president of **transportation and logistics risk control** at **EPIC**, who **added** that speeding and **improper lane changes** also **rank high** as contributing **factors**.

Recreational marijuana, impaired driving and the pressures to deliver

Impaired driving is also a **problem** which has **only gotten worse** following the **increased legalization** of marijuana.

“There’s an **increase in drug usage**—failed tests of the now **recreational marijuana**, things like that,” said Tommy Ruke, **founder** of the **Motor Carrier Insurance Education Foundation**. “There has been an **uptick in failed tests**.”

The robust and **record trucking** market of **2018** created a surge in **driver demand** which Ruke said led **companies** to be **less scrutinizing** while seeking to **put drivers** behind the wheel to **meet growing customer demand**.

Avery Vise, **vice president** of trucking at **FTR Transportation Intelligences**, shares Ruke’s **concern** about driver **qualifications** particularly as **more states** legalize **marijuana** for medicinal and **recreational use**.

“I think everyone **realizes** that you have to **watch the bottom line** and the **bottom line includes** things like **insurance premiums** and lawsuits and **things like that**,” Vise said. “And we’re **coming into a period** where not only is the **workforce aging** but we do have these **driver qualification issues**. I really **do think** that the **big driver qualification controversy** for the **coming decade** is going to be **marijuana** because we have a **regime with alcohol**. Nobody **expects truck drivers** never to **drink beer**. They expect them **not to drink beer** within a **reasonable amount** of time **before they're going to drive their truck**.”

In **reducing risk**, Vise said **testing for marijuana impairment** will prove **more difficult** since the **drug** can linger in a **user's body** for weeks even though they **may not actually** be under the **drug's influence** while **driving**.

“I think at **some point**, and it may be **inconceivable today** to many people, but I think at **some point** we’re going to **have to go with a regime** that says **we're going** to have to **test for impairment**, not for use,” Vise explained. “Not for **whether** your use of **marijuana** can be shown but **whether** you can be **shown** to be **impaired**, or the **concentration levels** are such that **impairment** is likely or **something like that**. That is **definitely a growing issue** that is **going to have to be dealt with. It's a big one**.”

As **insurance premiums** are predicted to **rise** amid more **intense litigation** some carriers are taking **additional steps** to lower the **risk of driver impairment**.

“The **hair testing** issue is probably **quite a while off** from a **regulatory requirement**,” Vise said. “I won’t say **never**, but it could be **quite a while** before it becomes a **regulatory requirement**. I think the **larger carriers** are moving in that **direction** for the same **litigation reasons** as insurance premiums **going up**

and all that to try and **protect themselves** because they don’t want to **end up in court** where someone says, ‘You could have used **hair testing**, but you **chose not to**.’ So that’s why we see the **larger carriers** doing that and that’s **going to have a pretty significant impact**.”

Increased **customers demand** has also **introduced** more trucks on the road which **increases risk**.

“What **increases severity** is, of course, **more frequency**,” Ruke said. “The trucks were **traveling more miles** no matter who was **driving it**.”

In addition to **driver impairment** and **distracted driving**, some analysts **criticize** mandated **Electronic Logging Devices (ELDs)** for **elevating risk** and thus **insurance premiums**.

“**Insurance costs** have been a **long-time concern**,” said Mark Montague, senior industry **pricing analyst** at **DAT Solutions**. “We keep hearing about **drivers** being **forced to haul freight** on tight schedules. Sometimes a **shipper** isn’t ready when **they arrive**. They (**ELDs**) cause an **increase in speed**. It’s the **pressure** to deliver **on time** and of course the **faster the fleet**, the **more accidents** which leads to **higher insurance rates**. So it’s kind of an **ugly picture** from that **standpoint**.”

Ruke said that **trucking companies** would also be **wise** to **protect** their public image as **attorneys seek** as much **derogatory information** as possible to **sway juries**. In addition to **CSA scores**, anything posted on **social media**, like comments, **pictures** and videos, are all **up for grabs** in court.

“This started with the **CSA stuff** in 2010 so now there’s **far more data** out there the **plaintiffs' attorneys** are using to **elevate the jury pool** against the **trucker**,” Ruke explained. “Think about it. Could you get **12 people** in a **jury box** that have **not been scared** of a truck on a **highway**? It’s just **human nature** and then the **other thing** is how many trucks have **skulls and crossbones**? I’ve got a **picture** of one with a **skull and crossbones** on the **front grille**. And it says **widow maker** on the side. We’re **not our own best friends** in those areas. And then all **of that stuff** is given to the **jury**.”

When it comes to **dealing with insurance carriers**, **honesty** is the **best policy** given the **vast amount** of data **available** to agents, attorneys and **Uncle Sam**.

“There’s nothing you **can hide** anymore between **social media** and what’s on the **federal website**. I mean, a **trucker lives in a glass house**,” Ruke said. “Every **insurance carrier** has access to everything. The **more you try** to be **deceitful** and try to **hide**, you’re better off saying **here's my problem** and here’s **what I've done** with it than trying to **hide it** because it’s **going to come out**. So, we’re trying to **teach the motor carrier** why this stuff is **important**, what it means to them in the **long run**.”

Now more than ever, **new carriers** will have to **brush up** on their **business plans**, demonstrate **dependable revenue streams** and make **safety a priority**.

“If you **don't understand** the **dynamics** of running a **trucking company**, that’s also a **factor** for **new ventures**. They can be written. There’s going to be **more value**, more price,” Ruke said. “**But it's not**, can the **driver drive the truck**? It’s can they **run their business**? Do they **understand** the importance of the **safety**? That’s where **insurance companies** are putting **overlay** onto the process of these **new ventures**. Right now, there’s a **limited number** of carriers who **will write new ventures**. And by **new venture** I mean anybody **who's been** in business **less than three years** with their **own insurance**. This is how the **insurance carriers** define that. I got a **couple of people** that **write new ventures**. **You've got to be clean**.”

Fatal U.S. Mining Accidents Dropped in 2019

There were **24 mining fatalities** in the United States in **2019**, the U.S. Department of Labor's **Mine Safety and Health Administration (MSHA)** reported.

This is the **fewest number of fatalities ever recorded** in a year, and only the **fifth year** in **MSHA's 43-year history** that there were **30 or fewer mining fatalities**.

MSHA is still **reviewing two cases** of possible **chargeable fatalities** which, if added **would make** the total in **2019** the **second lowest number** of fatalities ever recorded.

There were **four deaths** each in **Kentucky** and West Virginia; **two each** in Pennsylvania, Tennessee and **Texas**; and **one each** in Georgia, Illinois, **Louisiana**, Minnesota, Mississippi, New Mexico, **Oklahoma**, South Carolina, Vermont and Wyoming.

"The low number of mining deaths last year demonstrates that mine operators have become more proactive in eliminating safety hazards. But I believe we can do even better," said Assistant Secretary for Mine Safety and Health David G. Zatezalo. "A disproportionate number of mining deaths involved contractors, and we saw an uptick in electrocution accidents, with three deaths and another two close calls. In response, the Mine Safety and Health Administration launched a targeted compliance assistance effort, visiting thousands of mines to educate miners, operators and contractors on procedures that could prevent accidents like these."

After a **two-year increase** in 2017 and 2018, when about **half of all deaths** resulted from **vehicle-on-vehicle** collisions, failure to use a **functioning seat belt** and conveyor belt accidents, **MSHA** responded with a **multifaceted** education **campaign** and initiated **rulemaking**. In 2019, the **percentage** of deaths caused by **powered haulage** accidents dropped to **approximately 25%** of all **mining deaths**.

MSHA collected **147,500 samples** from coal and **metal/nonmetal mines** in 2019, a **record high**. The data revealed an **all-time low** for average **concentrations** of respirable **dust** and **respirable quartz** in underground **coal mines**, and the exposure to **dust** and quartz for **miners** at the **highest risk** of overexposure **hit all-time lows** as well.

Metal/nonmetal mines achieved the **second lowest average** respirable dust and **quartz concentrations** since 2009. **Metal/nonmetal mines** also achieved the **second lowest average** elemental **carbon** concentration and **average** total concentration **since 2009**.

Approximately **250,000 miners** work in around **12,000 metal/nonmetal mines** in the United States, while **approximately 83,000** work in around **1,000 coal mines**. In 2019, **MSHA** conducted **37,471 inspections** at nearly 13,000 mines employing **330,000 miners**, which resulted in **99,663 citations** and orders.

MSHA inspected all **underground mines** at least **four times** in 2019, and it **inspected** surface mines and **facilities** at least **twice**, as **required by law**.



MSHA Issues Lockout/Tagout Alert

The **Mine Safety and Health Administration (MSHA)** has issued a **Lockout/Tagout alert**. Electricity has **killed three** people in the mining industry since Aug. 7.

MSHA recommends the following **Best Practices** to avoid this type of accident:

- *Lockout/Tagout circuits before working on electrical equipment.*
- *Don't rush. Never work alone. Talk to coworkers and confirm your plan is safe.*
- *Identify and control all hazardous energy sources before conducting any task and follow safe work procedures.*
- *Open the circuit breaker or load break switch to de-energize the incoming power cables or conductors*
- *Open the visual disconnect to confirm incoming power is off*
- *Lockout/Tagout the visual disconnect*
- *Ground the de-energized conductors*
- *Train miners on equipment they may use.*
- *Electricians must know how to de-energize and disconnect electrical systems and equipment.*
- *Always troubleshoot without power first.*
- *If you must troubleshoot an energized circuit, use properly rated personal protective equipment to prevent hazards. For example, use electrically rated gloves, insulated blankets or mats, and polycarbonate barriers to prevent accidental contact with energized components.*

Why Is First Aid Important?

There will be a time in your life when you wish you had a first aid kit close by — at work, or at home, or in your car, wherever you might be.

It happens all the time ... people get injured and don't have a first aid kit. Here are 10 great reasons why you need a first aid kit.



1. **Response when there is no responder** - There is never a good place to get hurt, but when help is out of reach, a first aid kit is your next best friend. You can't always count on others to help so be prepared.
2. **We only have so much blood** - Scary but true. If your injury involves blood-loss, you only have precious seconds to get the necessary supplies to stop the bleeding. Keeping a first aid kit close by can provide the extra time you need to seek help.
3. **Kids will be kids** - You can count on kids getting hurt. Lack of experience or just plain recklessness all add up to someone getting hurt. Cuts, scrapes and burns are common injuries to expect so prepare a first aid kit with the appropriate supplies.
4. **Liability** - nobody wants to think about being sued. Businesses are required by law to keep first aid supplies readily available when there is no first response within 10 minutes. Be sure your first aid kit is stocked with the required **ANSI** first aid items.
5. **Protect your employees or people you care about** - When an injury occurs, a stocked first aid kit can save someone's life. Think about others who are risking injury while on the job and do the right thing. Let everyone know you have a stocked first aid kit ready to use and tell them where it is in case an accident occurs.
6. **Cost savings** - It is cheaper to clean a cut and put on a bandage than it is to travel to a clinic and seek first aid. First aid kits are designed to manage all types of injuries including basic cuts, scrapes and burns. Save yourself money and keep a stocked first aid kit close by.
7. **Accidents are unexpected** - Being prepared can reduce panic and provide the necessary aid. Always check your inventory monthly to make sure your first aid kit is ready to use when the unexpected takes place.
8. **Time is of the essence** - A first aid kit is just that; "**First Aid**". Having one ready provides temporary aid until you can get help. No kit means no immediate help. Precious time to respond can mean further injury, life or death.
9. **Small injuries can become big injuries** - The longer you wait for treatment, the more severe your injury can become. Immediate treatment can reduce risk.
10. **Peace of mind** - Being prepared, doing the right thing and even being able to help others when injury occurs is reason enough to want a first aid kit close by.

Order **First Aid & other Safety Supplies**
[MJS Safety.com](http://MJSafety.com)
 Carrie 720-203-4948, Jeremy 720-203-6325
 or Mike 303-881-2409
 Check out our monthly
 "First Aid" [class schedule](#)

Job Safety and Health
IT'S THE LAW!

All workers have the right to:

- A safe workplace.
- Raise a safety or health concern with your employer or OSHA, or report a work-related injury or illness, without being retaliated against.
- Receive information and training on job hazards, including all hazardous substances in your workplace.
- Request a confidential OSHA inspection of your workplace if you believe there are unsafe or unhealthy conditions. You have the right to have a representative contact OSHA on your behalf.
- Participate (or have your representative participate) in an OSHA inspection and speak in private to the inspector.
- File a complaint with OSHA within 30 days (by phone, online or by mail) if you have been retaliated against for using your rights.
- See any OSHA citations issued to your employer.
- Request copies of your medical records, tests that measure hazards in the workplace, and the workplace injury and illness log.

This poster is available free from OSHA.

Contact OSHA. We can help.

1-800-321-OSHA (6742) • TTY 1-877-889-5627 • www.osha.gov

OSHA's FREE WORKPLACE POSTER

Job Safety and Health: It's the Law

◆ What is the OSHA poster and why do I need it?

The **OSHA Job Safety and Health: It's the Law** poster, available for free from **OSHA**, informs workers of their rights under the **Occupational Safety and Health Act**. All covered employers are required to display the poster in their workplace. **Employers do not need to replace previous versions of the poster.** Employers must display the poster in a conspicuous place where workers can see it.

If you are in a state with an [OSHA-approved state plan](#), there may be a state version of the **OSHA poster**. Federal government agencies must use the [Federal Agency Poster](#).

◆ How do I get a copy?

You can get a copy of the **OSHA poster** in several ways.

Follow this [link](#) for complete instructions, posters in other languages and regulation requirements

◆ What's the law?

OSHA's regulations on the **OSHA poster** are at [29 CFR 1903.2](#).