MONTHLY NEWSLETTER SEPT 2018 VOLUME 10 ISSUE 9

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

OSHA/CONSTRUCTION NEWS SUMMARY

▶ OSHA's Respirable Crystalline Silica Standard for Construction

Frequently Asked Questions

The Occupational Safety and Health Administration (*OSHA*) has just released a set of **53 Frequently Asked Questions** (*FAQs*) to provide guidance to employers and employees regarding **OSHA's respirable crystalline silica standard for construction.** read more…

▶ 4TH ANNUAL COLORADO DAMAGE PREVENTION SAFETY SUMMIT – 2018

Please join the **Colorado Damage Prevention Action Team** for the 4th annual **Colorado Damage Prevention Safety Summit** on **September 18th** and **19th, 2018.** read more…

▶ Distractions are not only dangerous on the road! Think about this…Establishing a Workplace Cell Phone Policy

(*Sample Cell Phone Policy*) read more…

▶ WHEN to use FALL PROTECTION AROUND TRENCHES

It appears that **general contractors** seem to think that **OSHA** requires **fall protection** around **trenches** and are requiring **utility contractors** to install **fall protection** devices in the form of **guard rails** or requiring the **employer** to **erect** some form of tie off for personal **fall arrest systems.** read more…

▶ Just What Does it Take to be a Qualified Crane Operator?

It ought to have been straightforward. read more…

WORKERS COMPENSATION NEWS SUMMARY

▶ Workers' Compensation in Colorado:

Five little-known facts read more…

TRANSPORTATION NEWS SUMMARY

▶ WEEKLONG BRAKE INSPECTION BLITZ SET FOR SEPT. 16-22

Truck inspectors will **ramp up enforcement,** specifically on brakes, **Sept. 16-22** as part of the **Commercial Vehicle Safety Alliance's** annual **Brake Safety Week.** read more…

► Hours of Service 'Pre-Rule' Filed to White House by FMCSA

Though details are sparse, the Federal Motor Carrier Safety Administration is seeking approval from the White House to publish a so-called "pre-rule" regarding hours of service regulations. read more…

► FMCSA on ELDs and Enforcement:

KNOW WHAT YOU'RE DEALING WITH AT ROADSIDE read more…

► FMCSA Kicks Off Potential Hours of Service Reform Process — *Seeks Feedback from Carriers, Other Stakeholders*

The process to **potentially alter** current hours of service regulations has officially begun. read more…

► PLEASE use a little extra caution, and SLOW DOWN!

read more…

► ATRI Study Highlights Benefits of HOS Flexibility

Flexible **hours-of-service** breaks have the **potential** to **benefit** the drivers of **sleeper berth trucks,** according to a new **analysis** released by the **American Transportation Research Institute** on Aug. 28. read more…

► MNM Serious Accident Alert - Surface – Portable Screen

Surface – Limestone – On July 9, 2018, a miner was injured when the belt conveyor he was standing on unexpectedly moved.

Best Practices: read more…

► METAL/NONMETAL MINE FATALITY – On April 12, 2018, a 60-year old customer truck driver was killed when he fell from, and was run over by the truck's rear wheels while scanning into the operator's check-in system. **Best Practices:** read more…

► EPA Rule May Expand Asbestos Use

The **Environmental Protection Agency** has a **proposal** on the **drawing board** that critics say could **expand** the use of **asbestos** — an **industrial material** known to cause **cancer** and **lung disease.** read more…

► Preventing Falls

Falls and falling objects can result from unstable working surfaces, ladders that are not safely positioned, and misuse of fall protection. 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" Resource in 2018

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

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

Schedule of classes Sept 2018: • *TRAINING CENTER - 1760 BROAD ST, UNIT H, MILLIKEN, CO 80543*

- **PEC Safeland Basic Orientation: September 10, 20, 28; 8 – 4:30**
- **First Aid/CPR/AED/BLOODBORNE PATHOGENS: September 13, 27; 8 — noon**
  (We offer MEDIC FIRST AID)
- **TEEX H2S Operator Training – Awareness (ANSI Z390 Course): September 13, 27; 12:30 – 4:30**
- **OSHA 10 HOUR GENERAL INDUSTRY TRAINING: September 11, 12**

[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** ◄

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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 —
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OSHA's Respirable Crystalline Silica Standard for Construction

Frequently Asked Questions

The **Occupational Safety and Health Administration** (*OSHA*) has just released a set of **53 Frequently Asked Questions** (*FAQs*) to provide guidance to employers and employees regarding **OSHA's respirable crystalline silica standard for construction.** Through the **Construction Industry Safety Coalition** (*CISC*), **NUCA** was involved in the formulation of these **FAQs.** The development of the **FAQs** stemmed from litigation filed against **OSHA** by numerous construction industry trade associations challenging the legality of **OSHA's** rule. **OSHA** has also agreed to issue a **Request for Information** (*RFI*) on **Table 1** to revise the **Table** to improve its utility. **NUCA** will continue to look for ways to work with **OSHA** to improve the workability of this significant rule.

The **FAQs** are extensive and organized by topic. A short introductory paragraph is included for each group of questions and answers to provide background information about the underlying regulatory requirements. While employers are encouraged to review *all* of the **FAQs,** the following are some of the clarifications provided in the document.

Scope — The standard applies to all occupational exposures to respirable crystalline silica in construction work, except where employee exposures will remain below an **Action Level** (*AL*) of **25 µg/m³,** calculated as an **8-hour time weighted average** (*TWA*), under any foreseeable conditions. The exception is intended to ensure that the standard does *not* apply to employees whose work results in only minimal silica exposures.

The **FAQs** clarify that many common construction tasks are likely to be *outside* the scope of the standard because they typically generate exposures below the **AL.** This includes mixing small amounts of mortar; mixing small amounts of concrete; mixing bagged, silica-free drywall compound; mixing bagged exterior insulation finishing system base and finish coat; and removing concrete formwork. In addition, tasks where employees are working with silica-containing products that are, and are intended to be, handled while wet, are likely to generate exposures below the **AL** (*examples include finishing and hand wiping block walls to remove excess wet mortar, pouring concrete, and grouting floor and wall tiles*). The **FAQs** also state that many silica-generating tasks performed for only **15 minutes or less a day** will fall outside the scope of the standard.

Table 1 — The standard permits employers to select from two methods of compliance to control exposures to respirable crystalline silica: **"specified exposure control methods"** commonly referred to as **Table 1** or **"alternative exposure control methods."** Employers that follow **Table 1** do not have to assess employee exposures or separately ensure compliance with the permissible exposure limit. **Table 1** includes common construction tasks.

The **FAQs** clarify that the **Table 1** requirement that employers **"operate and maintain tools"** in accordance with manufacturer's instructions to **"minimize dust emissions,"** applies only to manufacturer instructions that are *related to dust control.* Other information in these instructions, including recommended respiratory protection, do not have to be followed for purposes of the standard.

For a few tasks on **Table 1,** respirator requirements vary based on task duration, ***i.e.,*** whether the task is performed for **"less than or equal to four hours/shift"** or **"greater than four hours/shift."**

The **FAQs** make clear that an employer does not have to track the exact amount of time that employees are performing a job throughout a shift to be in compliance with **Table 1.** Rather, before a task is performed, an employer must make a good-faith judgment about whether the task will take more than four hours. If the employer anticipates that an employee will be engaged in a task for more than four hours, the employer must provide the employee, at the beginning of the shift, the respiratory protection required in the **"greater than four hours/shift"** column on **Table 1.** If, in contrast, the employer anticipates that an employee will be engaged in a task for four hours or less, the employer needs to provide respiratory protection in accordance with the **"less than or equal to four hours/shift"** column. Finally, the **FAQs** clarify that handheld powered demolition hammers with bushing tools and tile saws are covered by **Table 1.**

Housekeeping — The standard includes requirements related to housekeeping on construction worksites. In particular, employers must not allow dry sweeping or dry brushing **"where such activity** could **contribute** to **employee exposure** to **respirable crystalline silica** unless wet **sweeping, HEPA filtered vacuuming** or other methods that **minimize** the **likelihood** of **exposure** are not **feasible."** In addition, employers must not allow compressed air to be used to clean clothing or surfaces where such activity could contribute to employee exposure to respirable crystalline silica unless: **(1)** the compressed air is used in conjunction with a ventilation system that effectively captures the dust cloud created by the compressed air, or **(2)** no alternative method is feasible.

The **FAQs** clarify that if employee exposure will remain below the **AL** under any foreseeable conditions, the prohibition on dry sweeping, dry brushing, and the use of compressed air for cleaning clothing and surfaces does not apply. They also clarify that the prohibition on these activities only apply to housekeeping activities, not to the use of these practices to perform a work task.

Written Exposure Control Plan — The standard requires employers to establish and implement a written exposure control plan that contains at least the following elements:

(1) a description of the tasks in the workplace that involve exposure to silica; **(2)** a description of the engineering controls, work practices, and respiratory protection used to limit employee exposure to silica for each task; **(3)** a description of the housekeeping measures used to limit employee exposure to silica; and **(4)** a description of the procedures used to restrict access to work areas, when necessary, to minimize the number of employees exposed to silica and their level of exposure, including exposures generated by other employers or sole proprietors.

The **FAQs** clarify that the standard does not require employers to develop a *new* written plan for each job or worksite. It requires only that employers have a written exposure control plan applicable to each worksite. Employers may develop a single comprehensive written exposure control plan that covers all required aspects of the plan for all work activities at all worksites. The **FAQs** also clarify that when silica generating tasks are being performed, the standard is not intended to prohibit *all* employees from entering entire areas of a construction site simply because employees in those areas are performing some work involving the generation of silica. The rule calls only for *minimizing* the number of employees in the relevant work areas. The standard does not preclude employees from entering work areas where silica-generating tasks are occurring when it is necessary for them to do so.

Medical Surveillance — The standard requires construction employers to make medical surveillance available at no cost, and at a reasonable time and place, to any employee who is required by the silica standard to use a respirator for 30 or more days a year. An initial examination must be offered within 30 days of initial assignment, unless the employee has received a medical examination that meets the requirements of the standard within the last three years.

The employee will receive a written medical report within 30 days of each exam that includes: **(1)** a statement indicating the results of the medical examination; **(2)** any recommended limitations on the employee's use of respirators; **(3)** any recommended limitations on the employee's exposure to silica; and **(4)** a statement, if applicable, that the employee should be examined by a specialist. The employer must also obtain a written medical opinion within 30 days of each exam, which contains more limited information than the report to the employee. The opinion to the employer contains the date of the examination, a statement that the examination has met the requirements of the standard, and any recommended limitations on the employee's use of respirators.

The **FAQs** make some important clarifications regarding medical surveillance. The silica standard does not preclude in-house health care providers from performing the required medical surveillance examinations. In addition, the standard does not preclude employers from receiving the same information that employees receive from the surveillance examination, if it is received for other purposes and through other means, such as through workers compensation records and proceedings. The **FAQs** also make clear that the standard requires employers to make medical surveillance *available* to qualifying employees, but does not require that employees participate in the surveillance.

4TH ANNUAL COLORADO DAMAGE PREVENTION SAFETY SUMMIT – 2018

Please join the **Colorado Damage Prevention Action Team** for the 4th annual **Colorado Damage Prevention Safety Summit** on **September 18th** and **19th, 2018.**

The **2018 Damage Prevention Safety Summit** will include **legislative** and **safety sessions,** (***New for 2018***) a **'Mock-Line-Strike' demonstration,** as well as an **opportunity** to meet some of Colorado's **top vendors** and **safe excavation leaders.**

The **2018 Colorado Damage Prevention Safety Summit** will be held on **Sept 18th** at the Sheraton Hotel (*Lakewood*) and **Sept 19th** at Jefferson County Fairgrounds.

Register & easily pay online. *Please RSVP as early as possible,* Online registration will be closed after midnight on Friday, September 14th 2018.

SAFETY SUMMIT ONLINE INFO AND REGISTRATION

Distractions are not only dangerous on the road!

Think about this…Establishing a Workplace Cell Phone Policy

(Sample Cell Phone Policy)

Employees may carry personal cellular phones (*devices*) on company time or while using company equipment, subject to the following restrictions:

1. Employees will inform their immediate supervisors prior to carrying a personal device during working hours.

2. Calls will only be received or made during break/lunch periods. Exception: in case of emergency.

3. Employees will not use devices while operating any company equipment.

4. The company assumes no liability for loss or damage to employees' personal property, including any devices carried on company equipment or left on company property. Employees assume the risk of loss or damage to devices carried during their workday.

5. Employees will be held personally and financially responsible for all damages and litigation in the event of an accident involving company owned equipment resulting from employees' use of any devices. Device use during company work hours is considered outside the employees' scope of employment.

6. If the company or supervisor receives a complaint or suspects that an employee is violating this policy, the company may require the employee to furnish cellular telephone records for the time frame in question so that the company can verify or negate the complaint or the suspected abuse.

Employees in violation of this policy may be subject to disciplinary action.

I clearly understand and will comply with the cell phone policy.

(Signed by employee)

WHEN to use FALL PROTECTION AROUND TRENCHES

It appears that **general contractors** seem to think that **OSHA** requires **fall protection** around **trenches** and are requiring **utility contractors** to install **fall protection** devices in the form of **guard rails** or requiring the **employer** to **erect** some form of tie off for personal **fall arrest systems.**

A group of **NUCA** members are **currently working** on a **white paper** to address the **fall protection** issue. Amongst other issues, the white paper will address why **guardrails** are not **effective** because they still leave the space between **trench box** walls and the **vertical dirt wall** unprotected, which could result in a **worker falling** into the space between the **box** and the wall. In essence, **guard rails** at best, create a **false sense** of **security.**

Tying off a **Personal Fall Arrest System** to a jersey barrier or **concrete block,** even one that has been **designed** by an engineer, is a **violation** of the **OSHA Fall Protection standard,** *Subpart M-1926.502(d)(16)(iii)*. Doing so can **lead** to a worker **falling in** and **slamming against** the **trench** box wall. When a worker is rigged to **prevent falling** into a **trench,** the worker will **not be able** to move from **side-to-side** unless a **horizontal lifeline** is set up. When using a **horizontal lifeline,** the line will have a certain **amount** of give in the middle that **could permit** a worker to **fall** into the **trench box** and slap the **side.** In addition, trying to keep the **horizontal lifeline stretched** tight as **required** by **OSHA** is a **challenging task** as the **trench** continues to move **down** the line.

OSHA regulations **do not require** fall protection for **trenches** even if they are **over 6-feet deep.** Although *1926.651 (l)* of the **OSHA Excavation Standard** refers to **fall protection,** it does not require **guardrails** or personal **fall arrest systems** to be installed along the **edge of trenches.** What it **does require** is **guardrails** for **walkways** used to cross over an **excavation.**

There is a **reference** to **fall protection** around **excavations** in *Subpart M1926.501(b)(7)(i)*, however, **fall protection** is only required at the **edge** of **trenches 6-feet or more** in depth when the **trench** cannot be readily seen because of **plant growth** or other **visual barriers.** *Section (7)(ii)* requires **fall protection** at the edge of a **well,** pit, **shaft,** etc., **6-feet or more** in depth.

Some **state regulations** may have **requirements** for **fall protection** along the edges of **trenches,** so make sure to **check** your own **state requirements,** especially if you are in an **OSHA State Plan** state.

On June 24, 2002, **OSHA's** Russell B. Swanson, Director Directorate of Construction issued an **interpretation** to **clarify** the **applicable OSHA** regulations.

29 CFR 1926.501(b)(7) provides:

(i) *Each employee at the edge of an excavation 6 feet (1.8m) or more in depth shall be protected from falling by guardrail systems, fences, or barricades when the excavations are not readily seen because of plant growth or other visual barrier;*

(ii) *Each employee at the edge of a well, pit, shaft, and similar excavation 6 feet (1.8m) or more in depth shall be protected from falling by guardrail systems, fences, barricades, or covers. Under these provisions, if the trench is not readily visible because of plant growth or other visual barrier, fall protection is required. Thus, unless the trench you are describing is obscured from view, there is no requirement for fall protection to be provided.*

When **fall protection** is **required** around **trenches,** a **controlled access zone** is not an **acceptable** means of providing **fall protection.** Controlled access **zones** may only be used where **employees** are **performing** overhand **bricklaying** and related work; or as part of a **fall protection** plan for **leading edge work,** precast **concrete erection** or residential **construction.** See *§1926.501 (b)(2)* (leading edge work); *(b)(9)* (overhand bricklaying and related work); *§1926.502(k)* (fall protection plan option); *Appendix E* (precast erection plan).

If you need **additional information,** please do not hesitate to contact, by fax, the **U.S. Department of Labor, OSHA,** Directorate of Construction, Office of **Construction Standards** and **Compliance Assistance,** fax # 202-693-1689. You can also **contact** the **above office** by mail at Room N3468, 200 Constitution Avenue, N.W., Washington, D.C. 20210, **although** there will be a **delay** in their **receiving correspondence** by **mail.**

In **order** to **avoid** being cited by a **GC** who is **insisting** that your company **set up fall protection** for a **trench,** be sure to **read** the **contract** before signing and **don't fall** for the **language** that says you must **comply** with **OSHA** and follow the **GCs safety plan** for **fall protection.** Make sure that you know if the **GC** is **expecting** your **company** to set up **fall protection.** If so, show them the **letter** of **interpretation above,** and if they **still insist** on **fall protection**, include a **cost** for it in your **bid.** More to come when the **white paper** is completed and **approved** by **NUCA.**

Just What Does it Take to be a Qualified Crane Operator?

It ought to have been straightforward. After years of industry representation before multiple regulatory agencies, several public hearings, tens of thousands of words of public comment, and even an inquiry by a Congressional committee, the **Proposed Rule** that **OSHA** crafted to address industry's concerns about crane operator certification finally saw the light of day in May.

Rather than resolve the issues at hand, however, it seems it has stimulated further debate about one of the key components of the rule that has stalled implementation of the crane operator certification requirement for the past four years and raised the question — Just what does it mean to be a qualified crane operator?

Just about everyone agrees that crane operators should be certified through an accredited certifying body for the type of crane they want to operate. But what does it take for an employer to turn that certified operator into a *qualified* operator?

OSHA, and most of industry, have dramatically different ideas about it.

OSHA is seeking to establish a highly detailed approach to what it terms "evaluation," a process that all employers would need to follow, regardless of their size or involvement with cranes.

Many employers, however, would prefer a more flexible system that allows them to adapt their evaluation procedures to their particular circumstances.

So just what is the role of "evaluation"? It is the intermediate step in the qualification process. If the process were a mathematical formula, it might look like this: **Certification + Evaluation = Qualification**

Certification covers the basic skills and knowledge needed to operate a crane.

Evaluation speaks to the additional elements necessary for an individual to be considered qualified, such as the amount of experience an operator might have on a given model of crane, whether they have worked with jibs or other boom extensions, or whether they physically can operate a particular machine.

One proposal that gained a lot of traction following hearings held by the **Advisory Committee on Construction Safety and Health** (*ACCSH*) and that was endorsed by the **Coalition for Crane Operator Safety** (*CCOS*) — a bipartisan group representing employers, labor, manufacturers, insurance underwriters, and the operator certification bodies themselves — would have been for **OSHA** simply to have referenced its existing definition of a "qualified person."

Why, many employers ask, could an employer's evaluation of a certified operator not simply rest on whether or not that person has (*to quote **OSHA's** definition*) "successfully demonstrated his ability to solve or resolve problems relating to the subject matter, the work, or the project"?

Indeed, in many ways, the kind of employer evaluation **OSHA** is proposing resembles a variant of certification more than the type of adaptable assessment employers are currently accustomed to provide — except, of course, they would not need to be subject to the psycho-metric development and maintenance rigor demanded of certification bodies.

So, what's next? With the comment period now closed, **OSHA** will have its work cut out wading through the extensive public comments received from all industry sectors (*including, remarkably, at least one that continues to lobby for an exclusion*). When it hinted in the **Proposed Rule** at a further six-month extension, the **Agency** was clearly concerned it would have trouble getting the **Final Rule** ready for publication prior to the existing November deadline when the requirement, as written, is due to come into effect. That means it will likely be April next year before we can expect to learn of **OSHA's** decision on this and other issues that it also requested public comment on in the **Proposed Rule.**

So what happens on November 10? Fortunately, **OSHA** has a number of mechanisms it could bring into play, including a directive to its compliance officers not to enforce the rule as written. All indications are that it will select one of these if necessary.

The bottom line is that, as keen as industry is to get past a situation that has sown uncertainty and confusion for many years, it's clearly important to get it right. Given that last year marked no less than the 25th anniversary of **OSHA's Advanced Notice of Proposed Rulemaking** that first signaled **OSHA's** interest in establishing a national crane operator license program, an additional six months seems a small price to pay.

As it has been frequently remarked over the course of these many years, **"No rule is better than a bad rule. Let's take the time to get this one right."**

Workers' Compensation in Colorado:

Five little-known facts

Colorado workers' compensation laws were passed in 1915, but many business owners are unaware of the regulations that are unique to our state. While many workers' comp laws are similar across state lines, it's helpful to have an understanding of the regulations and benefit eligibility. Here are five little-known facts about our state's rules and regulations:

There's a Limited Time Frame to Submit Claims

When an injury in the workplace occurs, it's crucial for both employee and employer to work quickly to report the incident. The injured worker must submit written notice to the employer within four days of the incident. It's up to employers to notify the insurance provider within ten days of the injury. While it may be possible to receive benefits after this window of time has passed, penalties could apply.

Colorado Operates Under a "No Fault" System

When an employee is injured on the job in the state of Colorado, fault is not taken into account. However, it's important to keep in mind that certain benefits may be reduced, in some circumstances, if it is determined that your actions caused or contributed to your injuries or if use of a controlled substance is involved. The no-fault system can put both employers and employees at ease, as compensation will be provided regardless of the circumstances when claims are submitted accurately and promptly.

Even Small Businesses Are Required to Hold a Workers' Comp Policy

Since regulations vary between states, it can be a challenge to understand the intricacies of Colorado's laws. If you're new to the state or just beginning your business here, you may be surprised to discover that all businesses with at least one employee are required to hold a workers' comp policy. This law applies to both full-time and part-time employees.

Coverage Isn't Required For Sole Proprietors

If you're the owner of a sole proprietorship, you may be curious of whether workers' comp coverage laws apply to you. In the state of Colorado, sole proprietors or business partners do not qualify as employees, and therefore, aren't required to purchase a workers' comp policy for themselves.

Employers Certified in Safety and Loss Control Are Eligible For Premium Discounts

Workers' comp coverage can be costly for employers, but the Division of Workers' Compensation in Colorado offers a discount for business owners who are proactive in preventing accidents. After applying to the Premium Cost Containment Board and demonstrating your commitment to risk management for at least one year, your business may be eligible to receive a 10% discount on workers' comp premiums.

Workers' comp policies are a must for businesses of all sizes and scope in Colorado. If you'd like to protect your employees and safeguard the company, you'll need to work with a trusted insurance provider.

(*SOURCE:* Pinnacol Assurance)

Weeklong Brake Inspection Blitz set for Sept. 16-22

Truck inspectors will **ramp up enforcement,** specifically on brakes, **Sept. 16-22** as part of the **Commercial Vehicle Safety Alliance's** annual **Brake Safety Week.**

This year's **Brake Safety Week** is a return to norm for **CVSA,** after paring the blitz down to a single day last year.

CVSA says most of the inspections performed during the weeklong blitz will be **full Level I inspections,** the most comprehensive inspection.

However, inspectors will have a **keen focus** on **brake components,** including:

- *loose or missing parts;*
- *air or hydraulic fluid leaks;*
- *defective rotor conditions;*
- *measurement of pushrod travel;*
- *mismatched air chamber sizes across axles;*
- *air reservoir integrity and mounting;*
- *worn linings, pads, drums or rotors;*
- *required brake-system warning devices;*
- *and other brake-system components.*

Vehicles with defective or out-of-adjustment brakes will be placed **out of service,** says **CVSA.**

Last year, **14 percent** of trucks inspected during the **one-day brake blitz** were placed **out of service** for **brake-related violations.**

On **April 25, 2018,** roadside **inspectors** placed nearly **1,600 trucks** and buses **out-of-service** for **brake violations** during the **Commercial Vehicle Safety Alliance's** unannounced **Brake Safety Day.**

In the **annual Roadcheck inspection sprees** (*which took place in June 2018*), **brake violations** usually comprise the **largest percentage** of **out-of-service** violations, **CVSA** notes.

Hours of Service 'Pre-Rule' Filed to White House by FMCSA

Though details are sparse, the Federal Motor Carrier Safety Administration is seeking approval from the White House to publish a so-called "pre-rule" regarding hours of service regulations.

The pre-rule, synonymous with an Advanced Notice of Proposed Rulemaking, won't have any substantive proposals for changes to hours of service. Rather, it would be a solicitation for feedback from industry stakeholders — such as carriers and drivers — about potential changes to hours of service regulations. ANPRMs are generally series of questions intended to gather input for a potential rulemaking.

Ray Martinez, head of the Federal Motor Carrier Safety Administration, reported this month that he hoped to kick off dialogue around hours of service reforms this fall, noting the oft-derided 30-minute break requirement and flexible split-sleeper berth options as potential areas to evaluate.

FMCSA spokesperson Duane DeBruyne says the agency has received "petitions conveying widespread concerns on hours-of-service regulations and requesting rulemaking," which prompted the agency's move to file the pre-rule.

To be published in the Federal Register, the White House must approve the proposal.

The agency is also waiting on approval from the White House's Office of Management and Budget for a research plan intended to study the safety aspects of allowing drivers to split their 10-hour off-duty time into segments, rather than taking it as a straight 10 or the limited 8-2 split.

FMCSA on ELDs and Enforcement:

KNOW WHAT YOU'RE DEALING WITH AT ROADSIDE

At the **Great American Trucking Show** in Dallas Aug. 23, **FMCSA Office of Enforcement Director** Joe DeLorenzo called out what the **agency** has seen as the **most common** couple of **issues** arising at the **roadside** when it comes to the **inspection** of **drivers' hours of service** via **electronic logging devices** of all types since the **mandate** came into play with **hard enforcement April 1.**

More common than **malfunction issues,** are basic **unfamiliarity** with the devices and the way they **work** from **both driver** and **law enforcement** perspectives.

Whether drivers **believe it** or not, DeLorenzo said, any **roadside inspection** is "equally as stressful for **both sides** of the equation," both **driver** and **inspector.**

The **"more the driver knows"** about the **specifics** of the device he/she is **using,** he added, "the **better** off that **inspection** will go."

A chief **element** of information needed by an **inspector** at this point is whether the **trucker** is utilizing an **Automatic Onboard Recording Device** or an actual **ELD** functioning under the new spec. With the former, **grandfathered** for **two years** under the terms of the **rule** and available for use through **December of 2019,** log information **transfer options** to the **roadside** officer occur **fundamentally** differently. Depending on which **device** you're utilizing, **roadside** may take **different steps** toward **checking** the information and **interacting** with the **trucker.**

"Some **newer devices** can operate in either **AOBRD** or **ELD** mode," further **complicating matters,** DeLorenzo also **emphasized.** "Making sure your **drivers** know what they have [*or what mode they're using*] is one of the **most important** things you can do to make sure the **inspection** goes **well."**

In addition to **availability** of the **ELD users' manual,** keep handy an **electronic** or **paper copy** of the **data-transfer instruction sheet,** particularly if using **devices** under the **ELD** spec. "If a driver can **locate** that," DeLorenzo said, the **inspection** is likely to **proceed** more **quickly.**

Yet **earlier** in the week during an **inspection** of a Kissimee, Fla.-based owner-operator's 2007 Freightliner Columbia at the Giles County **scale** in Tennessee **northbound** on I-65, a Tennessee **Highway Patrol** Sergeant didn't **bother** with **data transfer** at all.

The **reason?** In this **particular** case, a **quick scan** through the operator's **KeepTruckin ELD** app on his **smartphone** showed clearly that the **owner-operator** had come off of a **34-hour restart** three hours before **arriving** at the **scale.**

At the **same time,** though, Highway Patrol **Sergeant's** experience of the **FMCSA's** new **data-transfer protocol** from **ELD-spec devices** has been less than **perfect,** to say the **least. ELDs** he's tried it with only **yield** a **successful transfer** about **"40 percent** of the **time,"** he said, if drivers **know how** to do it in their **particular** device to **begin** with, reflecting DeLorenzo's **points** about **knowing** as much as **possible** about the **device.**

FMCSA recognizes **such issues,** DeLorenzo said, and **law enforcement** continues to hold the **option** to **check logs** on the **physical device** itself, to request **direct email,** or other **methods** of **direct transfer.**

On edits, DeLorenzo **emphasized** the **importance** of **notes/annotations** to the **log,** particularly when **taking advantage** of particular **situations/exceptions.** "On any **edit,** make sure you or your **driver** is doing **annotations,"** he said. "What you're **trying** to do is help explain what **happened** to someone who has **no idea.** Sometimes we see **annotations** like 'Hey, **my system** was **down** here so we went to **paper,'** or 'I was **working** in the **shop** so I went to **on-duty.'"**

When you do a **data transfer** to a **roadside officer,** the **annotations** go with it. They can see the **graph grid** and any **annotations** that you make.

DeLorenzo also **detailed** recent **changes** to **guidance** around the **agricultural exemption** to the **hours of service** rule and new **personal conveyance** guidance as well, both taken in **light** of the **ELD mandate** and more **rigid enforcement** of the **hours limits** it represented. A lively **discussion** of **situations** where **personal conveyance** may or may not be **acceptable** wrapped up the **session.**

FMCSA Kicks Off Potential Hours of Service Reform Process — *Seeks Feedback from Carriers, Other Stakeholders*

The process to **potentially alter** current hours of service regulations has officially begun. The **Federal Motor Carrier Safety Administration** announced it is seeking feedback from **industry stakeholders** on ways to **overhaul** hours regs, focusing on four key areas: **extending drivers' 14-hour** daily limit by two hours in the event of **adverse conditions,** allowing drivers to split their **10-hour off-duty period** into segments, revising the 30-minute **break requirement** and expanding hours limits for **short-haul drivers.**

The **ANPRM** poses no reforms for hours regs. Instead, it is **simply** a list of questions aimed at gathering input from **drivers,** owner-operators, carriers and other industry **stakeholders.**

The agency published an **Advanced Notice of Proposed Rulemaking** on Aug. 23rd and will accept public comments via the regulations.gov rulemaking portal for 30 days after its publication.

FMCSA is also holding a series of public **listening sessions** including one that took place in Dallas at the **Great American Trucking Show.** Another listening session is scheduled for **Sept. 14** in Washington, D.C., at **FMCSA** headquarters. Other listening sessions will be announced, said **FMCSA** Administrator Ray Martinez, who announced the **hours of service** data gathering mission.

"It's time to have an **honest conversation** about **hours of service,"** Martinez said. "What we have been doing is listening to stakeholders in our **regulated community** over the last few months with regard to **hours of service** and what changes would they propose that would make sense and **add flexibility.** What we kept hearing was flexibility, flexibility, flexibility. We are a **safety agency** — that's our **focus.** Everything we look at is through the **lens of safety.** So that is how we are approaching this: If we're going to look at **hours of service** changes to add **flexibility** for the regulated community, as long as safety remains a **priority,** we're willing to do that."

Martinez says there's **"no guarantee"** that any further action will be taken on **hours of service** reforms. He said the agency's next steps will be **predicated** based on the feedback it receives from **industry stakeholders** and the public. "We're encouraging everyone who has a stake in this to come forward and **participate,"** he said. "It's very open. This is an **opportunity.** Hours of service have not been **seriously addressed** in **15 years."**

Martinez also said the **implementation** of the **electronic logging device** mandate, which is obviously intended to force more **strict adherence** to hours of service **regulations,** allows the agency to pivot to look for areas to **add flexibility** to hours regs.

To view the long list of questions posed by **FMCSA** about **potential hours** of service **reforms,** see its ANPRM at this link.

The agency's move to begin **evaluating hours of service** regs was applauded the **American Trucking Associations.**

ATA President and CEO Chris Spear said his group is **"pleased to see** that Secretary Chao and Administrator Martinez **recognize** the need for sensible, **data-driven hours-of-service reform,"** and that the group will work to "provide **FMCSA** and **DOT** with the information they need to make **needed,** common sense **improvements** to the **hours-of-service rules."**

G. Webster – MJS Safety

I don't know about you, but I'm seeing more and more instances where drivers are trying to beat the yellow…turning to red…light, resulting in really close calls with the driver who has the right-of-way at a green light or turn arrow.

I've made a pact with myself to take a couple of extra seconds to make sure there aren't any "fly throughs" when my light turns green.

Believe me, I have been that "beat the light" person on occasion, but when I'm watching it as the bystander, it's pretty darn scary!

All I can say is PLEASE use a little extra caution, and SLOW DOWN! It will take a lot more than those couple of cautious seconds to clean up the mess!

ATRI Study Highlights Benefits of HOS Flexibility

Flexible **hours-of-service** breaks have the **potential** to **benefit** the drivers of **sleeper berth trucks,** according to a new **analysis** released by the **American Transportation Research Institute** on Aug. 28.

Current **federal law** requires drivers to **rest** for at least **10 hours** before starting a new **14-hour workday. ATRI's** report **suggests** that certain **"innovative HOS concepts"** could help drivers **avoid rush-hour** congestion by taking **strategic periods** of rest.

ATRI's report uses **data** to study how **breaking** up the **10-hour rest requirement,** such as **dividing rest hours** into 7/3, **6/4 or** 5/5 splits, would be **effective** in helping **drivers** avoid bottlenecks.

"A **rest period** of three or **more hours** that qualifies **toward** the daily **10-hour rest requirement** could effectively help **drivers** avoid **slow-moving** peak travel periods," **ATRI's** report states. "The **opportunity** for a **driver** to adapt to changing **conditions** and **congestion levels** throughout a day is **critical** and could be **greatly enhanced** with the **addition** of flexible **sleeper berth rules** to the current **HOS regulations."**

A **40-mile stretch** of highway from **northeast** Atlanta along **Interstate 85** to points west of the city along **I-20** was **ATRI's** testbed for the **study.** Truck **GPS data** revealed that it took drivers **40 to 90** minutes to **traverse** that corridor during **rush hour.** Drivers starting a **trip** along the **route** at **6 p.m.** could expect to **spend** more than **90 minutes** sitting in their **vehicle,** the study found.

Atlanta is home to **two** of the most **congested** freight **bottlenecks** in the country. The **five-level stack** interchange known as **"Spaghetti Junction,"** where I-285 and **I-85 North** intersect, ranked No. 1 on **ATRI's** 2018 **study** on the 100 **most congested** truck **bottlenecks** in the **country.** The intersection of **I-75** and **I-285 North** ranked **No. 4.**

The report **suggests** that flexible **HOS rules** would **allow** a driver to take a **break** for a **few hours** during **peak traffic** to avoid a **congested urban corridor,** such as the one in **Atlanta.** The driver then could **save time** and money by **traversing** the **corridor** faster when **rush hour** is over and the **route** is **relatively clear.**

"If only **25 truck trips** per day **avoided** the congested **weekday time period** presented on the **study segment,** truck **drivers** would drive 4,700 fewer hours annually to move the same **goods** the same **distance,"** the report states. "This **equates** to operational **cost savings** of more than **$300,000** per year for the **25-truck** sample at that **single location."**

HOS flexibility is a **common plea** among **truck drivers,** demonstrated in the **Federal Motor Carrier Safety Administration's** official request for **comment** on the subject issued in June 2017. **Comments submitted** to the **Federal Register** reflected a desire for **more options** to **split rest times.** Several drivers said that **flexibility** would **increase safety.**

"Being able to **get some rest** when, I feel, I **need it** would **greatly increase** my **productivity** and the **safety** of the **public,"** one respondent said in a **Federal Register** comment. "Playing **'beat the clock'** when I have been **held up,** in **traffic** or at the dock, is **not safe** for anyone. With a change to the **rules,** I could count the **six hours** I spent **sleeping** in the **dock waiting** to be **unloaded,** toward my **10 hour break** and not have it be **wasted time."**

The **report** also found that **flexible HOS** options can **yield** more than **$150 million** in **operational** cost savings a **year.**

ATRI's analysis was a **response** to the institute's **Research Advisory Committee** identifying **flexibility** in **HOS regulations** as a **top research** priority **last year.**

"ATRI's findings **confirm** what **drivers** have consistently said about **these rules** since they went into **effect:** The **lack** of **flexibility** has the potential to **hinder safety** and **productivity,"** said Dan Horvath, vice president of **safety policy** for **American Trucking Associations.** "We look **forward** to this **data informing** the **current debate** on **Capitol Hill** and at the **Department of Transportation** about the **future** of the **hours-of-service rules."**

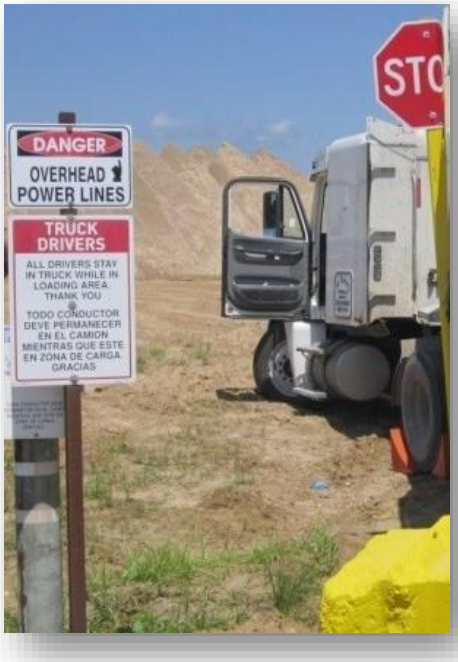
MNM Serious Accident Alert - Surface – Portable Screen

Surface – Limestone – On July 9, 2018, a miner was injured when the belt conveyor he was standing on unexpectedly moved. The miner was standing on the conveyor to repair the crushing plant engine. After being repaired the engine was started, activating belt conveyor movement.

The miner was knocked down and conveyed feet-first up to the head pulley. He was then discharged into a feed hopper six feet below. The miner was able to get to his feet and cling to the inside of the hopper wall's edge. Other miners heard screams for help, shut down the engine and rescued the injured miner from the hopper.

Best Practices:

- *Do not perform work on belt conveyors or crushers until the power is off, locked, and tagged, and machinery components are blocked against motion.*
- *Establish policies and follow manufacturer's recommended procedures for conducting specific tasks on crushers. Inspect the work areas for all potential hazards including places that persons may fall from or through.*
- *Implement measures to ensure miners are positioned safely and protected from hazards while performing the task. Do not place yourself in a position that will expose you to hazards.*
- *Task train persons to recognize all potential hazardous conditions and to understand safe job procedures for elimination of the hazards before beginning work.*
- *Provide a visible and/or audible system, with a start-up delay, to warn persons that a belt conveyor will begin moving.*



METAL/NONMETAL MINE FATALITY – On April 12, 2018, a 60-year old customer truck driver was killed when he fell from, and was run over by the truck's rear wheels while scanning into the operator's check-in system. The system identifies customer trucks entering the facility to load material.

Investigators believe the driver approached the Card Reader but positioned the vehicle too far away to scan the card from inside the truck. Investigators conclude that he removed his seatbelt, opened the driver's side door, and leaned out of the cab with his right foot on the clutch pedal and the truck in gear. The truck moved forward, causing him to fall out. The accident occurred because the victim did not properly secure the truck by setting the parking brake and putting the vehicle in park before opening the door and leaning out of the truck.

The victim was found underneath the belly dump of the semi-trailer, and the truck was still in gear.

Best Practices:

- *Implement check-in system technology that can be scanned remotely from inside the vehicle such as a RFID tag or indicator.*
- *Commercial and customer truck drivers should remain in their trucks while on mine property, unless a safe area for tarping and checking their loads has been designated.*
- *Operators should place their equipment in neutral and set the parking brakes before exiting the operator compartment.*
- *Rules establishing safe operating procedures should be posted.*
- *Ensure workers who operate heavy equipment are adequately informed, instructed, trained and supervised.*

EPA Rule May Expand Asbestos Use

The **Environmental Protection Agency** has a **proposal** on the **drawing board** that critics say could **expand** the use of **asbestos** — an **industrial material** known to cause **cancer** and **lung disease.** Since the **health hazards** of **asbestos** emerged **40 years ago,** use of the **material** has **dropped dramatically** across the **globe.** By 2013, more than **60 countries** had implemented **partial** or **full bans** of **asbestos.**

Critics and news reports say the **proposed rule** would open the **door** for **asbestos** to make a **comeback.** Before becoming president, Donald Trump **voiced** his support for **asbestos,** suggesting the **fire retardant** could have **prevented** the **World Trade Center** from **collapsing** during **9/11.**

People think **asbestos** is **banned** in the U.S., but **they're wrong,** Thomas Burke, an **environmental epidemiologist** at Johns Hopkins University Bloomberg School of Public Health told ***Science*** magazine.

Today, you can find **asbestos** in **brake liners,** potting soil, **chlorine**, factories and **firefighters' clothing.** Meanwhile, **homeowners** and communities continue to **deal with** the **fallout** of using **asbestos** as clothing and **building material** for thousands of years, most **recently** as a **flame retardant,** wall insulation and **liner** for **cement pipes.**

"Unfortunately, we all have **asbestos fibers** in our **lungs** — whether it's from the **subway stations** of New York, to the **brakes** on cars to **background exposure** from the historical use in **insulation** of **pipes** in our **grade schools,"** said Burke, who chairs **Health Risk and Society** program at the **Bloomberg School of Public Health.** "These asbestos fibers are tiny, and they get in your lungs. They're like needles, and they stick there forever."

The **EPA** has **proposed** a **new regulation** — called a **significant** new use **rule** — for certain uses of **asbestos.** If the **rule** is **certified,** here are the **products** where **asbestos** could **resurface.**

- *Adhesives, sealants, and roof and non-roof coatings*
- *Arc chutes*
- *Beater-add gaskets*
- *Extruded sealant tape and other tape*
- *Filler for acetylene cylinders*
- *High-grade electrical paper*
- *Millboard*
- *Missile liner*
- *Pipeline wrap*
- *Reinforced plastics*
- *Roofing felt*
- *Separators in fuel cells and batteries*
- *Vinyl-asbestos floor tile*
- *And any other building material (other than cement).*

Most people **don't encounter** enough **asbestos** to suffer **health problems,** but high **exposure** has been linked to **lung cancer,** lung scarring and **tumors** in the linings of **internal organs,** a cancer known as **mesothelioma.**

The **EPA** began outlawing **asbestos** for building materials in **1975,** starting with **pipe insulation.** By **1989,** the agency had issued a **final rule** for a **near-total ban** of the mineral, under the **authority** of the **Toxic Substances Control Act.**

Yet in **1991,** the **5th U.S. Circuit Court of Appeals** vacated the **EPA's rule,** leaving the **door open** for the importing and **manufacturing** of **asbestos-containing** products.

The **rule** calls on **manufacturers** to alert the **EPA** if they try to use **asbestos** in an array of **products,** including **adhesives,** sealants, and **roof** and **non-roof coatings;** separators in **fuel cells** and batteries; **vinyl-asbestos floor tile;** and any other **building material** (*other than cement*).

Will the **proposed rule** trigger an increase in **asbestos use?**

No one will know until the **rule** is **confirmed,** and the **EPA** begins reviewing **new applications** for the **chemical.**

Preventing Falls

Falls and falling objects can result from unstable working surfaces, ladders that are not safely positioned, and misuse of fall protection. Workers are also subject to falls or to the dangers of falling objects if sides and edges, floor holes, and wall openings are not protected. *Any time a worker is at a height of six feet or more (*construction industry*) or four feet or more (*general industry*), the worker must be protected.

Fall Protection

Fall protection must be provided for each employee on a walking/working surface with an unprotected side or edge at the height required by the **OSHA** standard applicable to their work environment.
Management is required to:

- Develop, implement and commit to a fall protection program
- Provide training on the fall protection program
- Evaluate the program on a regular basis to insure the program's effectiveness and determine whether it needs to be changed or updated

Employers are required to assess the workplace to determine if the walking/working surfaces on which employees are to work have the strength and structural integrity to safely support workers.

Once employers have determined that the surface is safe for employees to work on, the employer must select one of the options listed for the work operation if a fall hazard is present.

- Where protection is required, select fall protection systems appropriate for given situations.
- Use proper construction and installation of safety systems.
- Supervise employees properly.
- Train workers in the proper selection, use, and maintenance of fall protection systems.

Unprotected Sides, Wall Openings, and Floor Holes

Almost all sites have unprotected sides and edges, wall openings, or floor holes at some point during construction. If these sides and openings are not protected at your site, injuries from falls or falling objects may result, ranging from sprains and concussions, to death.

Use at least one of the following whenever employees are exposed to a fall of 6 feet or more [**see comment above*] above a lower level:

- Guardrail Systems
- Safety Net Systems
- Fall Arrest Systems
- Cover or guard floor holes as soon as they are created.
- Guard or cover any openings or holes immediately.
- Construct all floor hole covers so they will effectively support two times the weight of employees, equipment, and materials that may be imposed on the cover at any one time.
- In general, it is better to use fall prevention systems, such as guardrails, than fall protection systems, such as safety nets or fall arrest devices.

Ladders

You risk falling if portable ladders are not safely positioned each time they are used. While you are on a ladder, it may move and slip from its supports.

You can also lose your balance while getting on or off an unsteady ladder. Falls from ladders can cause injuries ranging from sprains to death.

- Position portable ladders so the side rails extend at least 3 feet above the landing.
- Secure side rails at the top to a rigid support and use a grab device when a 3 foot extension is not possible.
- Make sure that the weight on the ladder will not cause it to slip off its support.
- Before each use, inspect ladders for cracked, broken, or defective parts.
- Do not apply more weight on the ladder than it is designed to support.
- Use only ladders that comply with **OSHA** standards.

download a
Safety~TIPSheet
for your workplace
Preventing Slips, Trips and Falls