



## Important Message to our fellow Business Owners, Clients and Communities

We are closely following the latest guidance from the Centers for Disease Control (CDC), the World Health Organization (WHO), local governments, and public health agencies and are prepared to navigate these challenging circumstances with everyone's safety in mind.

Our physical offices remain open to continue to serve our clients during this evolving situation. We can also be reached by phone or email, as many of our consulting services can be provided remotely. In the effort to keep our employees and customers in good health, our staff has implemented the recommended CDC best practices and enhanced health and safety protocols at our facilities.

Our sincerest gratitude for your business and the opportunity to serve you. Considering the current global situation surrounding the Coronavirus (COVID-19) pandemic, we wanted to reach out and share the actions [MJS Safety LLC](http://MJS Safety LLC) is taking to keep your operations up and running.

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*Because information regarding COVID-19 and its widespread effects is ever-changing, articles in this month's newsletter referring to COVID-19 will show the release date of the information. We will do our best to pass along the most current information. However, if an article relates to you or your industry directly, you may want to check for any updates that might affect you.*

Here are some of the many helpful Resource links:

- [CDC – Centers for Disease Control](http://CDC - Centers for Disease Control)
- [CDPHE – Colorado Department of Public Health and Environment](http://CDPHE – Colorado Department of Public Health and Environment)
- [WHO - World Health Organization](http://WHO - World Health Organization)
- [Water and COVID-19 Frequently Asked Questions](http://Water and COVID-19 Frequently Asked Questions)
- [OSHA Guidance on Preparing Workplaces for COVID-19](http://OSHA Guidance on Preparing Workplaces for COVID-19)
- [OSHA Alert — Prevent Worker Exposure to Coronavirus \(COVID-19\)](http://OSHA Alert — Prevent Worker Exposure to Coronavirus (COVID-19))
- [DOL Resources to help Workers and Employers Prepare for the COVID-19 virus](http://DOL Resources to help Workers and Employers Prepare for the COVID-19 virus)
- [Colorado Works — Temporary Assistance for Needy Families \(TANF\) program](http://Colorado Works — Temporary Assistance for Needy Families (TANF) program)
- [Colorado PEAK - Medical, Food, Cash, and Early Childhood Assistance programs](http://Colorado PEAK - Medical, Food, Cash, and Early Childhood Assistance programs)
- [Covid19.colorado.gov](http://Covid19.colorado.gov)



**COLORADO**  
Department of Revenue

**Important Updates from the State of Colorado/  
Colorado Department of Revenue**

### ► Important Update

Home page for Colorado Department of Revenue – Division of Motor Vehicles - [link](#)

→ Please see the Home page for detailed information on what will be required prior to visiting one of the locations. Here's the [link](#) for complete details.

We are all growing weary of COVID-19, but we cannot become complacent... Please remain Safe & Healthy!

## ▶ MJS SAFETY TRAINING ANNOUNCEMENT

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

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

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

→ **Distance Learning & Video Conference classes:** *We are excited to announce that PEC will be allowing us to temporarily offer Safeland and the PEC H2S Clear courses via video conferencing until the end of May. We are also able to offer the 1<sup>st</sup> aid/ CPR classes with an online blended learning option, and remote skills verification – as well as our In-House H2S Awareness Course. Ask about other distance learning opportunities for more information.*

→ **Video Conference Courses Must Be Scheduled Separately and Are Available Upon Request.**

## OSHA / CONSTRUCTION NEWS SUMMARY

### ▶ As More Businesses Reopen, Worker Safety and Health Remains U.S. Department of Labor Priority

As more workplaces begin to reopen, the U.S. Department of Labor's **Occupational Safety and Health Administration (OSHA)** is reminding employers that worker safety remains a priority amid both coronavirus and common workplace hazards. [read more...](#)

### ▶ How to Use Gas Detection Technology to Improve Safety

Although other industries adapted to the new reality of a data-driven society years ago, the safety industry has lagged. [read more...](#)



## TRANSPORTATION NEWS SUMMARY

### ▶ Three Month Waiver in Response to the Economic Consequences of the COVID-19 Public Health Emergency —

*to relieve employers of commercial motor vehicle drivers subject to 49 cfr part 382 from certain pre-employment testing requirements* [read more...](#)

### ▶ Understanding the New 30-Minute Break Rule

Roughly two years in the making, the new federal hours-of-service (HOS) rules have arrived. [read more...](#)



### ▶ October 5 - November 8, 2020

The National Highway Traffic Safety Administration (**NHTSA**), in coordination with the Federal Railroad Administration (**FRA**) and the Federal Transit Administration (**FTA**), is launching the 2020 National Rail Grade Crossing Safety Campaign to increase public awareness about the dangers around railroad tracks in hopes to reduce fatalities at rail grade crossings. [read more...](#)

### ▶ FMCSA Narrows Definition of COVID-19 Relief Loads

*Regulatory exemptions for COVID-19 "emergency relief" loads will now be limited to only a few categories.* [read more...](#)

### ▶ How New HOS Rules Can Help Truckers Improve Safety

The new Federal Hours of Service (HOS) Rules have the potential to advance highway safety through better fatigue management. [read more...](#)

### ▶ When Fleets are Hit with Huge Post-Crash Settlements, Who Pays?

Mega settlements in truck crash lawsuits 'strangling the industry' as calls for reforms mount [read more...](#)

### ▶ Impaired driving just another part of 2020's changing landscape

If I had to describe 2020 to my grandparents, who passed several years ago, I'm not sure I could do it. [read more...](#)



### ▶ 4<sup>th</sup> of July message [read more...](#)



### ▶ Why Driver Hiring, Training Policies Matter Most to Insurers

Drivers are the **lifeblood** of your company, even if your **balance sheet** shows trucks to be the company's most prized **assets**. [read more...](#)

### ▶ Likely on Road to Nowhere, House Highway Bill Holds Litany of Trucking Reforms, Including Blocking Latest HOS Rule

*Though the Invest in America Act proposed by the U.S. House recently faces a long road to becoming law, it offers a preview of what direction any FAST Act successor might take with trucking policies.* [read more...](#)

### ▶ Evidence Emerges of Stricter Approach – and Confusion – Around Sleep Apnea Screening

A set of recommended **sleep apnea screening protocols** first recommended in 2016 appears to have been adopted by some medical examiners who perform **Department of Transportation physicals**. [read more...](#)



## MSHA NEWS SUMMARY

▶ **MINE FATALITY** – On June 1, 2020, a contract truck driver died after falling from the top of his trailer. The victim received first aid/CPR at the scene and passed away after being transported to a local hospital. [read more...](#)



### ▶ Proximity Detection/Collision Warning Information from Technical Support

**MSHA** and the **mining industry** have **worked together** to develop **potentially life-saving** technology that can **stop machine motion** and/or send a **warning signal** to the machine operator when it **detects** a person or **object** in the **machine's path**. [read more...](#)



## MONTHLY SAFETY & HEALTH TIP NEWS SUMMARY

### ▶ How To Avoid Welding Hazards [read more...](#)



### ▶ Working in Outdoor and Indoor Heat Environments

Millions of **U.S. workers** are **exposed to heat** in their workplaces. Although **illness** from exposure to heat is **preventable**, every year, **thousands** become **sick** from occupational **heat exposure**, and some **cases** are fatal. [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
- PEC Core Compliance
- OSHA 10 Hour General Industry
- OSHA 10 Hour Construction
- OSHA 30 Hour General Industry
- OSHA 30 Hour Construction
- NUCA Confined Space
- NUCA Competent Person for Excavation & Trenching
- Hydrogen Sulfide [H<sub>2</sub>S] – Awareness
- Hands-on Fire Extinguisher training
- Respirator: Medical Evaluation & Fit Testing
- DOT Hazmat Training
- Hazard Communication – GHS Training
- MSHA Sand & Gravel Training [Part 46 only]
- Teens & Trucks Safety
- Fall Protection for the Competent Person
- 1st Aid/CPR Course- Medic 1<sup>st</sup> Aid
- Defensive Driving Safety for large and small vehicles
- HAZWOPER 8, 24 & 40 Hour
- Instructor Development for Medic 1<sup>st</sup> Aid/CPR
- PEC'S Intro to Pipeline
- Bloodborne Pathogens Compliance Training
- Confined Space Rescuer Training
- Respiratory Protection Training

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

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

• SEE MORE INFORMATION FOR Distance Learning & Video Conference classes

- \*PEC Safeland Basic Orientation: July 6 ( video class), 10, 20, 28; 8 – 4:30;
- \*First Aid/CPR/AED/BLOODBORNE PATHOGENS (We offer MEDIC FIRST AID): July 9, 21; 8 – noon;  
*This class available for blended learning (online) with remote or in-person skills assessment*
- \*Hydrogen Sulfide Awareness [ANSI Z390 -2017 Course]: July 9, 21; 12:30 – 4:30;  
*This class available via Instructor Led video conference*

\* In-person classes are limited to 9 people at this time in accordance with social distancing guidelines.

[ For any last minute schedule updates, go to [www.mjssafety.com](http://www.mjssafety.com) ]

► NEED ANY OF THESE CLASSES IN SPANISH? CONTACT [carriejordan@mjssafety.com](mailto:carriejordan@mjssafety.com) TO SCHEDULE TODAY ◀

GO TO [mjssafety.com](http://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

MJS SAFETY

JEREMY – 720-203-6325 CARRIE – 720-203-4948 MIKE – 303-881-2409

Order First Aid & other Safety Supplies  
[www.mjssafety.com](http://www.mjssafety.com)  
Jeremy 720-203-6325  
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June 15, 2020

**OSHA / CONSTRUCTION**

## As More Businesses Reopen, Worker Safety and Health Remains U.S. Department of Labor Priority

As more workplaces begin to reopen, the U.S. Department of Labor's **Occupational Safety and Health Administration (OSHA)** is reminding employers that **worker safety** remains a **priority** amid both **coronavirus** and **common workplace hazards**.

In all phases of reopening, employers need to plan for **potential hazards** related to the **coronavirus**, as well as those stemming from **routine workplace processes**. Employers should be **aware** that the **pandemic** might **increase employee stress, fatigue and distractions** and should **consider** these **factors** in planning their **employees' return** to work to ensure operations **resume** in a safe and **healthful manner**. Employers should also **carefully plan** before attempting to **increase production** or tasks to **make up** for **downtime** to avoid exposing **employees** to additional **safety** and **health hazards**.

As part of their **reopening plans**, **OSHA** recommends **employers provide** workers with "**refreshers**" on **safety and health training** and **address maintenance** issues they may have **deferred** during a **shutdown**. Employers should also **revisit** and update **standard operating** procedures and **remember** that exposures to **hazards** may **increase** during **shutdown** and **start-up periods**. It is important for **employers** to review and **address process safety issues** – including **stagnant or expired chemicals** – as part of their **reopening effort**. Employers also should **remember** that **Section 11(c)** of the **Occupational Safety and Health Act, 29 U.S.C. 660(c)**, prohibits **employers** from **retaliating** against **workers** for **raising concerns** about **safety and health conditions**.

**OSHA** is providing **coronavirus-related guidance** to help employers **develop policies** and procedures that **address** the following issues:

- [Workplace flexibilities](#);
- [Engineering and administrative controls, safe work practices, and personal protective equipment](#);
- [Training workers on the signs, symptoms and risk factors associated with the coronavirus](#);
- [Basic hygiene and housekeeping practices](#);
- [Social distancing practices](#);
- [Identifying and isolating sick workers](#);
- [Return to work after worker illness or exposure](#); and
- [Anti-retaliation practices](#).

**OSHA's** guidance for **employers** also includes frequently asked **questions related** to **coronavirus** in the **workplace** such as **worksite testing**, **temperature checks** and **health screenings**, and the need for **personal protective equipment**.

This **guidance** is **intended** to accompany the **U.S. Department of Labor** and **U.S. Department of Health and Human Services'** previously developed [Guidance on Preparing Workplaces for COVID-19](#) and the **White House** [Guidelines for Opening up America Again](#). Existing **OSHA** standards that **apply** to **protecting workers** from **infection** remain in place as **employers and workers return to work**.

Visit **OSHA's** [coronavirus webpage](#) frequently for **updates**. For **further information** about the **coronavirus**, please visit the [Centers for Disease Control and Prevention](#).

Under the Occupational Safety and Health Act of 1970, employers are responsible for providing safe and healthful workplaces for their employees. **OSHA's** role is to help ensure these conditions for America's working men and women by setting and enforcing standards, and providing training, education and assistance.

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

# How to Use Gas Detection Technology to Improve Safety

To quote the famous British writer Sir Arthur Conan Doyle, creator of Sherlock Holmes, *“It is a capital mistake to theorize before one has data. Insensibly one begins to twist facts to suit theories, instead of theories to suit facts.”* So how does this relate to the safety industry and more specifically to the safety of our teams?

Although other industries adapted to the new reality of a data-driven society years ago, the safety industry has lagged. Now, it's time for the safety industry to embrace data.

Many of us use connected devices like cell phones and smart home devices, yet when it comes to connectivity and data collection on the job, the safety industry is more reserved. Often, conversations about connected safety, or using connected devices to collect valuable safety data and protect workers, will cause safety managers to cite privacy concerns.

While it's always important to strike a balance between respecting worker privacy and maintaining safety, these concerns show how easy it is to overlook the value of data from portable or area gas detectors. There are many ways to use gas detection data that do not require monitoring every move your workers make.

The best way to improve safety is by using data specific to your site's hazards. Too often, gas detection data is collected, stored, and never reviewed. Or worse yet, it is not reviewed until a catastrophic event forces a post-mortem investigation of the numbers.

Here, we'll cover three ways to use gas detection data to improve worker safety.

## Tracking exposure

Gas detectors can show you valuable data on what gases workers are exposed to. Alarm events and high exposure levels are clear evidence that your team may be in danger. But, prolonged gas exposures just below the alarm thresholds point to at-risk conditions just as clearly.

Here's an example of how you can use gas alarm data to track worker exposure and ensure workers get medical attention when they need it:

*When a high gas alarm sounds, workers evacuate the area. As a safety manager, you are responsible for the follow-up procedure. Do you send the exposed workers for a medical examination? Or do you assume that they are perfectly healthy because they say they feel fine? In a case like this, the data gathered by personal gas detectors could save someone's life.*



*Even short exposures to high concentrations of certain gasses could be harmful to your workers.*

*After a short exposure a worker could feel fine, but symptoms might develop after he or she goes home for the day. With the data collected by gas detectors, you can view a detailed report on every worker's gas exposure, whether it triggered a high alarm or not, to make informed decisions on proper follow up.*

## Ensure proper equipment usage

Despite all the advancements in gas detection technology, workers still die from exposure to toxic and explosive gases. Even with the most reliable instruments, the likelihood of workers being injured or killed on the job remains high if instruments are not used properly.

In an organization with a weak safety culture or poor processes, team members might not use gas detectors correctly. Or worse yet, they might not use them at all. You can use data from your gas detectors to spot habits that endanger your team members. Many gas detection management programs come with tools to help you use data to identify at-risk behaviors, like workers using gas detectors without a bump test, using gas detectors overdue for calibration, ignoring alarm events, or not using gas detectors at all.

## Identify trends

Tagging alarm data with specific locations on your site allows you to gain new insights into previously unanalyzed data. For example, you could look at the number of alarms triggered at a specific location during a given time period. You can then use the alarm data to spot trends and identify the root cause to prevent the problem from happening again.

As more data is collected, there are an increasing amount of innovative ways to use it. For example, today there are systems that use advanced predictive models to identify the dispersion path of a chemical release. With predictive models, data is fed into software that analyzes patterns to identify what will happen in the future, allowing you to take action quickly and stay one step ahead of gas hazards. This type of data is particularly valuable when used proactively to make changes before a disaster strikes.

Thanks to the power of data, every company will soon have the opportunity to predict when and where the next gas leak will occur, so you can take steps to prevent it. But until then, there are many options for using your gas detection data to protect workers, assess your safety culture, and drive operational improvements.

As Sir Arthur Conan Doyle says, it's important to use facts to inform your theories – especially when it comes to safety.

June 5, 2020

## Three-Month Waiver in Response to the Economic Consequences of the COVID-19 Public Health Emergency —

*to relieve employers of commercial motor vehicle drivers subject to 49 cfr part 382 from certain pre-employment testing requirements*

**SUMMARY:** **FMCSA** grants a three-month waiver from certain pre-employment testing requirements applicable to employers of drivers subject to 49 CFR part 382. This action responds to the President's Executive Order No. 13924, **Regulatory Relief to Support Economic Recovery**, issued on May 19, 2020, related to the economic consequences of the Coronavirus Disease 2019 (COVID-19) public health emergency.

**DATES:** This waiver is effective June 5, 2020, and ends on September 30, 2020.

### Legal Basis

The Transportation Equity Act for the 21st Century (TEA-21) (Pub. L. 105-178, 112 Stat. 107, June 9, 1998) provides the Secretary of Transportation (the Secretary) authority to grant waivers from any of the **Federal Motor Carrier Safety Regulations** issued under Chapter 313 of Title 49 of the United States Code or 49 U.S.C. § 31136, to a person(s) seeking regulatory relief (49 U.S.C. §§ 31136(e), 31315(a)). The Secretary must make a determination that the waiver is in the public interest and that it is likely to achieve a level of safety equivalent to, or greater than, the level of safety that would be obtained in the absence of the waiver. Individual waivers may be granted for a specific unique event for a period up to three months. TEA-21 authorizes the Secretary to grant waivers without requesting public comment, and without providing public notice.

The Administrator of **FMCSA** has been delegated authority under 49 CFR 1.87(e) and (f) to carry out the functions vested in the Secretary by 49 U.S.C. chapter 313, relating to commercial motor vehicle operators, and 49 U.S.C. chapter 311, subchapter I and III, relating to commercial motor vehicle programs and safety regulations.

### Background

On May 19, 2020, the President issued Executive Order No. 13924 setting forth "the policy of the United States to combat the economic consequences of COVID-19 with the same vigor and resourcefulness with which the fight against COVID-19 itself has been waged."

Among other things, the Executive Order directed executive branch agencies to "address this economic emergency by waiving or providing exemptions from regulations and other requirements that may inhibit economic recovery consistent with applicable law and with protection of the public health and safety." This waiver responds to the unique circumstances of certain pre-employment testing requirements arising from the economic emergency identified in the President's Executive Order, as further described below.

Various measures employed to reduce the spread of COVID-19, including social distancing, and stay-at-home and business closure orders issued by State and local governments, have significantly decreased demand for motor carrier services, particularly from passenger carriers. In response to the COVID-19 public health emergency, many employers have imposed layoffs, furloughs, or otherwise temporarily removed employees from performing safety-sensitive functions, as defined in 49 CFR 382.107, resulting in their removal from the random pool for controlled substances and alcohol testing for a period greater than 30 days.

As employers begin calling these drivers back to work, they will incur the cost of conducting pre-employment controlled substances testing before using these drivers to perform safety-sensitive functions, as required by 49 CFR 382.301. The administrative and cost burdens of pre-employment testing for furloughed drivers outside the random testing pool for more than 30 days falls on motor carrier employers at the very time they are attempting to return to expanded levels of operation.

The Agency finds that temporary regulatory relief from this burden will aid in the economic recovery of motor carriers impacted by the COVID-19 public health emergency, without negatively impacting safety. **FMCSA** also concludes that this waiver will aid in the Nation's overall economic recovery by enabling the efficient resumption of the transportation of people and cargo throughout the United States.

READ THE ENTIRE [Grant of waiver](#)

**FOR FURTHER INFORMATION CONTACT:** Mr. David J. Yessen, Chief of the Compliance Division, Office of Enforcement and Compliance, 202-366-1812, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

PDF [link](#) for Pre-employment Testing Waiver



# Understanding the New 30-Minute Break Rule

Roughly two years in the making, the new **federal hours-of-service (HOS)** rules have arrived. They could **provide drivers** with a lot more flexibility — and **productivity** — if applied correctly. In particular, the changes to the **30-minute break rule** could have a big impact on regional and **long-haul drivers**.

Before using the **new rule**, however, drivers must understand **how and when it applies** and how to implement it properly.

## Changes Bring More Flexibility

Under the current rule, a **30-minute rest break** is required in order to drive a CMV after going **8 consecutive hours** without a break. Drivers must be **off duty and/or in a sleeper berth** for their breaks.

Under the new rule, a **30-minute break from driving** is only required after accumulating **8 hours of driving time** if the driver will continue to drive a **CMV after the break**. As a result of the change, a break will be needed only by those who drive a **CMV more than 8 hours per workday**. Fewer drivers, therefore, will need the break to **remain in compliance**, which could reduce violations.

Because drivers are **allowed to remain on duty (not driving)** for their breaks, they may also **gain productivity**. Anything besides driving a CMV will count as a **valid break**, meaning drivers can continue to **perform other work** activities. Time spent loading or unloading, fueling, doing **vehicle inspections** or paperwork, or engaging in other work activities **will all count as a break**.

In addition, **many drivers will have** the flexibility to **shift their breaks** to a later point in the workday (*after 8 driving hours rather than 8 consecutive hours after starting the workday*).

Some **segments of the industry** already have a special exemption allowing them to remain on duty for their breaks, such as **haulers of explosives** or ready-mix concrete. Those exemptions will **no longer be necessary**.

## Points Worth Considering

Driving while **fatigued will still be prohibited**, making off-duty rest breaks an important option for many drivers. If a driver is fatigued and needs to take a break, even if he or she has **more driving time available** under the new rule, a **supervisor may not require** the driver to continue driving. Doing so could be considered harassment under **§390.36, which is illegal**.

While the new rule offers more flexibility, drivers must still be prepared to **take breaks as necessary**. For instance, parking shortages will not be an excuse to violate the rule. To **ensure compliance**, drivers should not wait until they drive nearly 8 hours before seeking a place to stop for their **break from driving**.

**Company policies** may also still require drivers to log off duty for their breaks, even though they are **no longer required** to by law. In addition, there is no requirement to add notes to a log or ELD to indicate which break was used to **comply with the break rule**. Such notes are optional.

## The Bottom Line

Drivers who decide to **take advantage of this change** will need to make sure they understand how the rule is structured and how to determine when a **30-minute break is required**. Though it offers **increased flexibility** and productivity, the new rule may also put drivers at risk if they push themselves too far. When considering **whether to implement** the change, it's important to **ensure that safety** is the central concern.



As a result of the hours of service change, a break will be needed only by those who drive a CMV more than 8 hours per workday.



## **October 5 - November 8, 2020**

The National Highway Traffic Safety Administration ([NHTSA](#)), in coordination with the Federal Railroad Administration ([FRA](#)) and the Federal Transit Administration ([FTA](#)), is launching the **2020 National Rail Grade Crossing Safety Campaign** to increase **public awareness** about the dangers around **railroad tracks** in hopes to **reduce fatalities** at rail grade crossings.

Motor **vehicle crashes** at rail grade crossings are **avoidable**. This campaign is a **focused effort** to reverse the **uptick** in rail grade **crossing fatalities**.

**OUR MESSAGE IS SIMPLE: Stop. Trains Can't.**

Click [here](#) for up-to-date campaign materials.

On behalf of the NHTSA team, thanks for your proactive support in railroad crossing safety.

June 9, 2020

## FMCSA Narrows Definition of COVID-19 Relief Loads

*Regulatory exemptions for COVID-19 "emergency relief" loads will now be limited to only a few categories.*

The **Federal Motor Carrier Safety Administration** has extended its [COVID-19 emergency declaration](#) allowing for the **exemption of truck drivers and motor carriers** from **hours-of-service rules** and certain other **regulations** if delivering **relief loads** – but it has narrowed the **definition** of relief loads.

The **June 8 notice** continues the **nationwide exemption** granted from **Parts 390 through 399** of the **Federal Motor Carrier Safety Regulations** through July 14, 2020.

**FMCSA** said it is **continuing** the **exemption** because the **presidentially declared** emergency remains in place, and because a **continued exemption** is **needed** to support direct emergency **assistance** for some **supply chains**.

However, the **agency** has **concluded** that there is **no longer** a need for **emergency relief** with respect to **some categories** of supplies, **equipment**, and persons covered by the **May 13 extension**.

After the **previous exemption expires** on **June 14**, the exemption will **cover emergency relief efforts only for transportation of:**

- **livestock and livestock feed**
- **medical supplies and equipment related to the testing, diagnosis and treatment of COVID-19**
- **supplies and equipment necessary for community safety, sanitation, and prevention of community transmission of COVID-19, such as masks, gloves, hand sanitizer, soap and disinfectants.**

Direct assistance **does not include** routine **commercial deliveries**, including mixed loads with a **"nominal quantity of qualifying emergency relief** added to **obtain** the benefits of this **emergency declaration."**

Previously, the **exemption** also **covered food**, paper products and other **groceries** for emergency **restocking** of **distribution centers** or stores, the immediate precursor **raw materials** for **manufacturing medical and sanitary supplies**, fuel, liquefied gases to be used in refrigeration or **cooling systems**, and equipment and **supplies** for temporary housing and **quarantine facilities**.

## How New HOS Rules Can Help Truckers Improve Safety

Source: Brian L. Fielkow, CEO - Jetco Delivery, Executive VP - GTI Group

The new **Federal Hours of Service (HOS) Rules** have the **potential** to advance **highway safety** though better **fatigue management**. However, we must **recognize** that any **regulation**, no matter how well-intended, **merely establishes** the **minimum needed** to squeak by. To **achieve real results**, trucking companies and professional **drivers must look** beyond compliance to the **behaviors** that truly **drive safety**.

The **new rules** announced by the **Federal Motor Carrier Association (FMCSA)** become **effective Sept. 29, 2020** and provide **much-needed flexibility** to our country's professional **truck drivers** to better **manage fatigue**. The **FMCSA**, listening **carefully** to many stakeholders, took more than **two years** to develop these **rules**.

Under **current HOS rules**, a driver may **work 14 hours** before taking a **mandatory 10-hour break**. Once the **duty clock** has started, a driver **may not pause** the clock. So, if a **driver is tired** and needs to **pull over** for a nap or extended break, there is a **disincentive** because the **driver loses valuable** duty hours. Most drivers are **paid on productivity** and therefore **might be reluctant** to pull over for a **few hours of rest**.

Under the **new HOS rules**, a driver may **split his/her 10-hour break** into two breaks of **7 hours/3 hours** or **8 hours/2 hours**. This revision **allows the driver** to pause the **clock**.

Earlier in June, a **House highway bill** was introduced. One of the **bill's provisions** is to stop the **new HOS rules** from taking effect **pending exhaustive** studies and **reviews**. The bill **could delay** the **new rules for years**. Critics of the **new HOS rules** **worry** that some **bad actors** will use the **new rules** to push **drivers** to their **limits**.

It's **nonsense** to think that we should **delay progress** on **meaningful safety reform** because of **bad actors**. There is a **segment** of the **trucking industry** that certainly will **cheat** under the **new HOS rules**, just as they are **cheating** under the **current ones**.

We **must ramp up enforcement** against the **cheaters**, with the objective of **driving bad companies and bad drivers** out of the industry. **Trucking companies** must be a part of the **enforcement solution**. We **must eliminate** rogue **operators** from our ranks. If we look the **other way**, we are part of the problem. If we **truly** want to raise the **bar on safety**, we cannot **regulate** to the lowest **common denominator**.

Moreover, when it comes to **safety**, traditional **"labor vs. management"** thinking is **destructive**. Entire **organizations** must pull in the **same direction**. The best companies have **created organizational** alignment around **safety**. They know **safety** and **productivity** are **not** in **conflict** with each other and that the **safest companies** are the **most productive**. These companies **understand** that their **safety mission** is **never accomplished**. Safety is about **continuous improvement**.

The **new HOS rules** provide **industry players** with a **powerful tool** to improve safety by **allowing professional drivers** to manage their **fatigue**. Having the ability to **stop the clock** creates an **incentive for drivers** to rest because they can **pause** their **duty cycle**. They also can **stop for bad weather** or rush hour traffic, thereby **avoiding** the most **stressful driving** conditions. Under **real-world application** of the **current rules**, drivers are incentivized to **keep pushing**.

The **new rules** **recognize** that you can **regulate hours** but you **cannot regulate fatigue**. **Fatigue management** is about **listening** to your **body** — knowing when it is time to **recharge**. **Fatigue management** is about **using good judgment** and **having the flexibility to do so**.

With **greater flexibility** comes increased **individual and organizational accountability**. Drivers must be **individually** accountable to use **breaks** for their intended **purpose**, and **face consequences** if they **abuse** their **break time**.

(cont'd next page)

Consider the infamous 2014 truck incident involving comedian Tracy Morgan. The truck driver in that case had been awake for 28 hours, having driven 12 hours in his personal vehicle before beginning his shift. It is difficult for employers to know what their drivers are doing in their off-hours. Drivers must hold themselves to the highest possible standard.

Trucking companies must be organizationally accountable for driver and public safety. We must unconditionally allow a driver to pause the clock for a break under the new HOS rules. We cannot allow production pressure to interfere with a driver's need to manage fatigue. We must not dissuade a driver from pausing the clock regardless of the urgency of the shipment.

Accountable companies understand that just because they are compliant does not mean they are safe. Regulations, at best, provide only the minimum to get by. Take this example: Assume that a driver comes to work feeling very sick. The driver may have 14 legal duty hours available. The driver is compliant. From a safety standpoint, however, the driver should not work. You simply cannot regulate this scenario or thousands of similar ones. True safety is more about behavior, judgment and accountability than technical regulations.

The new HOS rules allow accountable companies and drivers to work smarter – driving slower during rush hour traffic or inclement weather and obtaining much-needed rest mid-cycle. Delaying the new HOS rules accomplishes nothing and deprives the industry of the opportunity to better manage fatigue.

The trucking industry must capture this opportunity. We have a duty to our drivers and the public. FMCSA has provided trucking companies and professional drivers with tools to become safer. We must get it right. There will not be a second chance.

## When Fleets are Hit with Huge Post-Crash Settlements, Who Pays?

Mega settlements in truck crash lawsuits 'strangling the industry' as calls for reforms mount

Courts in recent years have taken up an alarming trend in crash litigation against trucking companies: Awarding mega settlements, sometimes regardless of fault, to plaintiffs who sue carriers after a crash.

In post-crash litigation in which juries order trucking companies to pay multi-million-dollar settlements, who actually foots the bill? Mostly, it depends on the fleet, their size and their type of insurance.

Many larger fleets are self-insured up to a point, meaning they are on the hook for a certain amount of liability before their insurance company takes over. In the case of some of the largest trucking companies, they may be self-insured for \$10 million, said attorney Charles Carr of the Birmingham-based law firm Allison Carr. If such fleets are hit with a verdict higher than \$10 million, the trucking company would then have to payout \$10 million before insurance comes in to pay the rest.

For smaller fleets that may just have \$1 million in liability insurance coverage, which is common normal coverage amount (*federal law requires a minimum of \$750,000*), the money owed in a verdict has to come from somewhere, Carr said. "If there's a \$21 million verdict with only a \$1 million policy, the plaintiff's options are to either walk away and take the million and forget about the other \$20 million or sue the insurance company that only offered \$1 million for bad faith. Or if it's a solid trucking company with trucks in their yard, send the sheriff in to seize those trucks and sell them."

Lee Parsley, general counsel for litigation reform group Texans for Lawsuit Reform, said the verdict amount announced from such cases isn't always what gets paid out. In Texas, punitive damages, which are intended to punish the recipient on top of economic and non-economic damages, are capped based on a formula using economic and non-economic damages. That cap, however, is calculated post-trial.

"A jury is presented with the idea that a trucking company is rogue and needs to be punished, but in Texas, verdicts that have large punitive damage numbers won't sustain into law," he said. "After the verdict comes in, lawyers return to the courtroom, and the defense lawyer will say the damages are X and Y, so the punitive damages are capped at Z. We see a fair number of reductions in terms of judgements.



There are no standards to punitive damages, and they can work purely off emotion. Juries think nothing of punishing companies for multi-millions of dollars."

### Mitigating chances of a verdict against your fleet

The push for tort reform is in the works to try to reign in huge settlements against fleets. However, until any tort reform is accomplished, if ever, there are ways fleets protect themselves.

Annette Sandberg, CEO of TransSafe, said carriers should be sure to enforce all of existing safety policies and, at a minimum, enforce all regulatory requirements. "Have processes on vetting and hiring drivers," she said. "Some fleets might hire a driver and train them at the very beginning, and that's the last time they're trained. Have systems and processes in place for everything."

Parsley said one thing he's heard from trucking companies in Texas is that in-cab camera systems have helped protect them from liability.

Sandberg agreed, though fleets that adopt cameras also need to adopt processes for "how to enforce and use that tool," she said. "You have to have a methodical process on what to do with cameras. What's fireable, what's egregious, what's trainable?" She also suggested that fleets work to get in front of the narrative post-crash.

"What you find with people on the defensive is they don't talk to the press. I don't know that that's always a good strategy," she said. "It doesn't hurt to make it look like you're aggressively investigating an accident. If you fire a driver, come out and say it. A lot of companies think they can hunker down and wait it out, but in this day and age, it never goes away. If your story isn't out there, nobody's going to hear it." Additionally, if you know your driver is at fault, "jump on it and deal with it early," she said. "Don't force them to take you to court."

Carr said his firm has evaluated cases early to see if there is a chance a "case could ultimately become a nuclear verdict." If so, "we work really hard to resolve those kinds of cases early. If you know what the value of the case is, and if your primary motivation is to get it settled within a few months after the accident occurred, you can do it. A lot of the industry doesn't put the time and effort into doing that."

# Impaired driving just another part of 2020's changing landscape



**Source:** Darrin Grondel, VP of traffic safety and government relations  
Foundation for Advancing Alcohol Responsibility

If I had to describe 2020 to my grandparents, who passed several years ago, I'm not sure I could do it. Born, raised and retired in Alabama, they experienced economic depression, pandemics and civic upheaval in their lifetime, but not all in a span of six months. The world is changing and it's hard to keep up, even for non-retirees.



Green: Fully legalized Blue: Medical only Purple: No legal program  
For non-truckers, the rules and regulations for purchasing and using marijuana can vary wildly from state-to-state, but it's still illegal to drive impaired.

When I was in elementary school, we had D.A.R.E. assemblies in the gym featuring a rotating lineup of speakers spinning tales of life gone astray thanks to drug abuse. Fast forward to Driver's Ed in my junior year and D.A.R.E. had been replaced by the dangers of drunk driving and the speaker replaced by an assistant baseball coach.

Another 20-plus years later and D.A.R.E. and Coach Wright reached a crossroads, as "just saying no" to one thing has led to saying yes to others.

Positive tests for marijuana use made up nearly 50% of the violations reported to the **Federal Motor Carrier Safety Administration Drug and Alcohol Clearinghouse** in its first five months.

For non-truckers, the rules and regulations for purchasing and using marijuana can vary wildly from state-to-state, but it's still illegal to drive impaired. The rules are far more black and white for commercial drivers (*it's illegal to use and carry under any circumstances*), yet still more than 10,000 positive marijuana tests have cycled through the **Clearinghouse** since it debuted in January.

Drunk driving numbers are falling among all motorists, but incidents of "drugged driving" (*or driving while impaired*) are increasing. In 2018, 75% of all drivers involved in a fatal crash tested positive for cannabis and multiple other substances in their system at the time of the crash, according to the **Rocky Mountain High Intensity Drug Trafficking Area**. More than 36,000 people died in highway crashes in 2018 (*about the same as 2019*), according to the **National Highway Traffic Safety Administration**, and almost 11,000 were due to impairment.

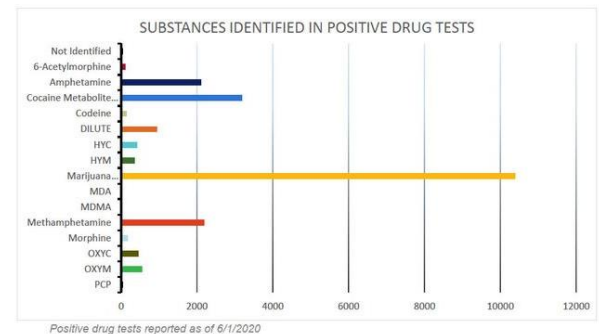
The **Federal Motor Carrier Safety Administration** estimates 0.8% of commercial drivers have used drugs while on the road. After alcohol, marijuana is the drug most often linked to impaired driving, said Darrin Grondel, speaking as part of the **Truckload Carriers Association Virtual Safety and Security** meeting Wednesday.

Carriers are required to remove drivers tagged with a drug and/or alcohol violation through the **Clearinghouse** from safety-sensitive functions, which includes driving, until they have completed a return-to-duty (*RTD*) process. Through June 1, nearly 20,000 drivers have been cited with at least one **Drug and Alcohol Clearinghouse** violation, but more than 15,000 had not started the *RTD* process. Another nearly 1,000 drivers have completed the *RTD* process.

Not all hazardous driving can be laid at the feet of alcohol and marijuana. Even prescribed drugs and over-the-counter medicines can cause basic motor skill impairments or trigger a positive test.

Cannabidiol (CBD) has skyrocketed in popularity in recent years, largely as an all-natural wonder drug for sufferers of chronic pain, anxiety or sleeplessness, among many other things. However, it's only been approved for the doctor-prescribed seizure treatment Epidiolex.

"There are no known benefits for taking CBD over-the-counter," Grondel said, adding there's also some ambiguity on potential legal implications for drivers. "CBD still contains THC and, if tested after recent use, it would come up positive. You cannot take the main ingredients out of the plant."



A driver taking Epidiolex for seizures would likely be medically disqualified in the first place, putting any driver who's using CBD at risk of a positive drug test. "So, if a driver used and is stopped and tested, they would likely come back positive for THC, depending on the time frame," Grondel said, "and it could also show carboxy or byproducts of cannabis use."

Most national studies on marijuana's impact on driving focus on private vehicles and place little attention on commercial vehicle operators, so there is a lack of good data on CMV crashes. However, Grondel said, what isn't up for debate is the misnomer that just because marijuana is now legal, it's safe.

"We've seen marijuana go from 3% to 5% concentration to 93% to 94% concentration in some oils," he said, adding research indicates THC levels have increased up to 10 times in the last 30 years in marijuana flower. "Those concentrations have a deep impact on the level of impairment."

When smoked, marijuana can lead to impairment in between 1 and 30 minutes, with a lasting effect of 2 to 3 hours. When consumed orally, the effects are more delayed – 1 to 3 hours – and the effects can last from 4 to 8 hours, although Grondel noted a lot of additional research was needed to understand all the methods of ingestion and the effects, durations and long-term impacts. "There's no substance that you'll ever take that will make you a better driver," he said.

The **U.S. Department of Transportation's Rule 49 CFR Part 40** requires supervisors to attend two hours of training to recognize symptoms of alcohol and drug abuse. The purpose of the training is to teach managers to identify indicators that a driver is using or under the influence of alcohol or drugs, but there's little formalized followup training, which Grondel said is key as the legalization of marijuana evolves along with the manners in which it can be consumed.

D.A.R.E. never covered THC brownies or gummies, or the fact that the effects of marijuana are not universal, and neither do current DOT guidelines. The balance between what is legal and what is safe is delicate here; much more delicate than dropping an egg into a rocket-hot frying pan. And there are plenty of questions.

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## **All of us at MJS Safety wish you a happy and safe 4<sup>th</sup> of July holiday weekend.**

**The Colorado Department of Public Health and Environment urges the public to practice social distancing, wear face masks, stay at home when possible, and avoid nonessential travel.**

### **CDOT asks: Planning to drink on Independence Day?**

- Make sure you find a sober ride to and from the party before you go out. Some options include taxis, Lyft, Uber and public transit.
- If a friend or family member is your designated driver, make sure he or she is absolutely sober before they drive you home, not just more sober than you are.
- Drink water between alcoholic beverages and eat plenty of food.
- If you are ever uncertain if you are safe to drive home, find a sober ride instead. Any amount of alcohol can result in impairment, and the consequences aren't worth the risk.
- Use a breathalyzer to drink responsibly and stay in control. The only time it is acceptable to drive is with a BAC of 0 percent.

### **Hosting a 4th of July party?**

- Encourage guests to find a sober ride home before the party or set up an Uber or Lyft group ride code to get everyone home safely.
- Provide plenty of food and non-alcoholic beverages for your guests.
- Only serve alcohol to guests who are over 21 years old.
- Stop serving alcohol at least one hour before the party ends.
- Plan activities and games that do not involve alcohol.
- Make arrangements for guests to spend the night if they do not have a sober ride home.
- Don't be afraid to take car keys away from guests who have had too much to drink. Remember, if you serve a guest alcohol and he or she gets in a crash, you could be held liable.
- Keep your guests safe with a smartphone breathalyzer to monitor their BAC and level of impairment.

### **and remember...Click It or Ticket**

- Buckle up and require any passengers to do the same.



# Why Driver Hiring, Training Policies Matter Most to Insurers

Source: Wade Millward, Millward Agency

Drivers are the **lifeblood** of your **company**, even if your **balance sheet** shows trucks to be the **company's most prized assets**. After all, each **rig** can **cost tens of thousands** of dollars to **purchase** and **maintain**. But without drivers, your **trucks** will sit **idle** and loads **don't get delivered**. This makes your **team** your **most valuable asset**.

And your **greatest liability**.

**Truck drivers** share a **tremendous responsibility** when behind the **wheel**. The sheer **size** of a **tractor plus** its trailer makes any **accident** a **catastrophic event**. Because of this, insurance **companies** are **highly sensitive** to the **drivers** you hire. By taking a **proactive approach** to your **hiring**, training, and **monitoring practices**, you can reduce your **fleets' insurance premiums**.

## Hire Right

**Reducing** your **risk** in the eyes of an **insurance company** begins with your **hiring practices**. Although insurers will run **MVRs** on each driver, they **only tell so much**. By expanding your **due diligence** with each **new hire**, your company will be **more attractive** to **insurance companies**.

Your **organization** should have a **written new-hire procedure** **documenting** your **hiring process** from **application** to hire.

**The process should include:**

- License check
- Drug screening
- Written application
- MVR check and review
- Formal, in person interview
- Speak with prior employers
- Review of all driving records

**Submit** your **new hire process** along with **documented applicant information** when soliciting **quotations** for **insurance**. Odds are it will be **more robust** than most **applicants**, giving you a **leg up** in securing more **competitive terms** at **lower rates**.

## Train Right

Hiring the **best drivers** is only the **first step**. Keeping your team **well trained** and up to date on the **latest safety regulations** will help **reduce potential claims**. Here too you will want a **documented procedure** in place that can be **provided to insurance companies**.

**Within your training procedure, include:**

- Defensive driving program
- Distracted driving training program
- Pre-inspection / walk-around program
- Securing the truck and trailer program
- Loading and unloading training program
- High risk training program (*hazmat, double trailer, auto hauling, etc.*)

A **robust training program** does require a **significant time commitment** to develop and run on a **consistent basis** (*at least once a quarter*). However, not only will you **save money** on your **trucking insurance**, you might avoid the **biggest expense** of all – a **large accident claim**.

## Monitor / Discipline Right

Having **strong training programs** is only as good as the **disciplinary measures** you have to **back them up**. This is where the **rubber really meets** the road. While **insurance underwriters** will appreciate **formal hiring** and **training processes**, what they really want to know is **how you monitor** and **enforce them**.

Because your **business is mobile**, monitoring your **drivers** can be a bit of a **challenge**. But with a **combination** of old and **new technology**, you can exhibit your **commitment to safety**.

**Here are a few of the most effective monitoring methods:**

- Perform ride-a-longs
- Conduct regular drug and alcohol screenings (*in accordance with state and federal law*)
- Install telematics in each truck
- Implement a safe driver incentive program
- Regularly pull and review MVRs
- Administer written quizzes after each training session
- Use checklists (i.e. walk around safety checklist)
- Deploy an "am I driving safe?" bumper-sticker program

For **each monitoring program** you have, include the **disciplinary actions** you will take if **drivers violate** any of your **conditions**. The more **oversight** you have on your **drivers**, the **lower likelihood** of an **at-fault accident** of occurring.

# Likely on Road to Nowhere, House Highway Bill Holds Litany of Trucking Reforms, Including Blocking Latest HOS Rule

*Though the Invest in America Act proposed by the U.S. House recently faces a long road to becoming law, it offers a preview of what direction any FAST Act successor might take with trucking policies.*

With the clock swiftly ticking toward the current highway funding law's Sept. 30 expiration, the U.S. House recently proposed a possible successor to the 2015 FAST Act.

Relative to trucking, the bill would derail the just-finalized rule by the U.S. Department of Transportation to institute changes to hours of service regulations by halting the regs from taking effect until DOT can undertake months of studies and reviews, if not longer.

The Invest in America Act also includes a long list of other trucking provisions, including those around carrier safety ratings, detention times at shippers and receivers, truck parking, lease-purchase agreements and driver training.

The bill, the text of which was released recently by the House's Transportation and Infrastructure Committee, is likely on a fast track to nowhere, however, at least in the current Congress. The bill faces an uphill battle to clear the Republican-controlled Senate, especially in time for the FAST Act's Sept. 30 expiration. Congress likely will need to pass one or more short-term extensions until it can iron out a longer-term highway bill.

However, the House bill does offer a preview of the direction Congress might head with any FAST Act successor.

Highway bills, such as the current FAST Act and its MAP-21 and SAFETEA-LU predecessors, are major vehicles for Congress to steer trucking regulatory policies. MAP-21 called for DOT to mandate the use of electronic logging devices, among other reforms. Likewise, the FAST Act pulled Compliance, Safety, Accountability (CSA) scores from public view and required the Federal Motor Carrier Safety Administration to overhaul the CSA program.

Outside of the likely unpopular provision to delay hours of service reforms finalized just days ago after two years of regulatory work by DOT, the House's Invest in America legislation with other trucking policy provisions, highlighted by:



**Truck parking.** The bill designates \$250 million for grants to construct parking areas for commercial trucks. That would include rest areas, as well as new lots adjacent to existing public and private parking facilities such as truck stops, warehouses, distribution centers and weigh stations, as well as "turnouts," the bill says, along existing federal highways. The grants also could be used on technologies that help drivers find parking via notification systems.

**Detention pay and limits.** The bill calls for FMCSA to issue a rule that sets limits on how long drivers can be detained at shippers and receivers without being paid for their time. While the rule likely would put the onus on carriers to pay drivers for that detention time, if they don't already, it also likely would give carriers strong leverage to work with shippers and receivers to cut excessive dwell time at docks.

**CSA and Safety Fitness scores.** Though FMCSA in 2017 scrapped a rule to overhaul how it rates carriers for compliance interventions and out-of-service orders, the House's Invest in America bill calls for the revival of the Safety Fitness Determination rule. Likewise, it would require FMCSA to institute, within a year, a new scoring methodology for the CSA program and for its scores to again be made public.

**Truck leasing arrangements and driver training.** The bill would require FMCSA to establish a task force on lease-purchase arrangements between carriers and independent contractors to study predatory leasing agreements and whether new laws or regulations are needed to "promote fair leasing agreements," the bill states. The legislation also would require the agency to give quarterly progress reports on the entry-level driver training rule that was delayed in January until 2022.

## Evidence Emerges of Stricter Approach – and Confusion – Around Sleep Apnea Screening



A set of recommended **sleep apnea screening protocols** first recommended in 2016 appears to have been adopted by some medical examiners who perform **Department of Transportation physicals**. There's evidence the screening criteria may have been plucked from a draft update to the **Federal Motor Carrier Safety Administration's** official Medical Examiner handbook. The draft was posted online in April as part of the public record from an **FMCSA Medical Review Board meeting** that in part discussed potential updates to the handbook.

Publication of the **draft does not violate** the spirit of Congress' 2013 requirement that **FMCSA** follow formal rulemaking procedures in any official **guidance on apnea protocols**, said **FMCSA** spokesman Duane DeBruyne. The draft, with its newly included **sleep apnea screening guidelines**, is a work in progress up for discussion, he said, and "*does not provide* current, official, **FMCSA interpretation and guidance** to medical screeners."

Following *Overdrive's* inquiry, DeBruyne and **FMCSA** staff also discovered a "**technical glitch**" that might have contributed to confusion about the document's status. Every page is clearly marked as a "**DRAFT**" with a **large watermark**, at least for many viewers. But in some cases, depending on the software the reader is using to access the draft, the **watermark sometimes is not visible**. "On my own home computer," he added, "I likewise *do not see* the word/watermark 'DRAFT' anywhere in that document." The agency is "**feverishly working on solving**" the problem.

**Apnea screening protocols** put forward as **Medical Review Board** recommendations in the draft **closely resemble those drafted in 2016** when **FMCSA** was considering a rulemaking (*later abandoned*) around the condition. Among other things, it would **require** any driver with a **body mass index measurement** greater than or equal to 40 to receive a conditional certification pending results of **diagnostic testing for sleep apnea**. Other criteria specify a variety of screens for drivers with a body mass index **greater than or equal to 33**. The wide net the screens would cast, *Overdrive* research estimated at the time, might have screened between 25% and 38% of truckers then **not being treated for apnea**.

The recent draft was crafted as part of what the **Medical Review Board** had been tasked to complete by the end of 2017. There's some evidence the **technical glitch or simply the draft's publication** itself may have facilitated confusion for some medical screeners and third-party companies in the **business of printing** and distributing guidebooks and software.

Earlier this month, Ohio-based 18-year professional trucker Aaron McCloskey went in to do his **medical certification renewal**. The examiner recommended a **three-month conditional certification** on account of screening software that, nearing the end of his examination, popped up with a recommendation for **sleep apnea screening**.

A company driver for a Pittsburgh, Pennsylvania-based trucking company specializing in events, **furloughed at least through the end of July**, notes he's been **overweight through his entire career**, with some slight ups and downs. "I have been defined as '**morbidly obese**' for all of those 18 years," he said.

Nonetheless, "I have a **safe driving record**, with only one accident. That accident was caused by the **auto driver and I was not cited**." He'd been **screened for sleep apnea testing** about six or seven years ago, and had been cleared to **drive minus treatment**. Given he's treated for high blood pressure, he renews his certification every year. He felt any **question of sleep apnea** had long ago been **resolved**.

In the recent attempt at med cert renewal, "I had given the examiner **no indication of symptoms** related to **sleep apnea**," he said. "She then told me that due to my **body mass index measurement**, and my **BMI alone**, I am *required* to have a sleep apnea test, and that she would only be giving me a **three-month card**."

The examiner and driver **discussed the lack of regs** that specify any hard-fast BMI screening cutoff. "I expressed that I felt she was **discriminating** against me based on my weight, which of course she denied. Initially, I **agreed** to accept the **three-month card**. Then I decided I would not accept the three-month card, **requested my paperwork, and left**."

The plot thickened the following day at a clinic of the large network of **occupational health provider Concentra**. An examiner referenced a "new law," said the driver, requiring screening if your **BMI measurement is above 40**. Pretty much his "exact words. Mind you, the most interaction I had with this **doctor was a hello**" before he said this. "I reacted passionately, telling him he was **not being truthful**."

The driver requested evidence of the **examiner's statements**, and the examiner returned with a physical, bound copy of an **examiner's guidebook**. It appeared to reiterate the **Medical Review Board's screening recommendations** from 2016 as new — the same recommendations posted in the April draft to **FMCSA's Medical Review Board** website. **FMCSA's** actual official guidebook has **no mention of specifics** when it comes to **apnea screening**. "I pointed out that a recommendation is not the same as law. The examiner then stated that they would **refund my money and left the exam room**."

The driver is **biding his time** on his renewal, focusing on losing weight — he may take a **home pulse-oximeter-based apnea indication test**, much more affordable than the referrals to **overnight sleep labs** examiners often want to make, as a precaution. **Past oximeter tests**, tracked overnight, that he's taken showed only inconsequential incidence of any **apnea that interfered with oxygen levels**.

Shortly after his attempts at **medical certification renewal**, he heard the **news of FMCSA's extension of its waiver** for renewals **during the ongoing COVID-19 coronavirus pandemic**. "When I found that out about the extension, my stress level **went down**," he said.



**MINE FATALITY** – On June 1, 2020, a contract truck driver died after falling from the top of his trailer. The victim received first aid/CPR at the scene and passed away after being transported to a local hospital.

### Best Practices:

- **Discuss work procedures;** identify all potential hazards to do the job safely.
- **Train everyone to recognize fall hazards** and ensure that safe work procedures are discussed and established.
- **Include safe truck tarping requirements** in site-specific hazard training.
- **Provide truck tarping safe access facilities** where needed.
- **Provide an effective fall arrest secure anchorage system.** Ensure that people wear and attach fall protection connecting devices where there is a danger of falling.
- **Use automatic tarp deploying systems** to prevent people from working from heights.



[pdf](#) of this bulletin

**This is the 8th fatality reported in 2020, and the third classified as “Slip or Fall of Person.”**

## Proximity Detection/Collision Warning Information from Technical Support

**MSHA** and the **mining industry** have **worked together** to develop **potentially life-saving** technology that can **stop machine motion** and/or send a **warning signal** to the machine operator when it **detects** a person or **object** in the **machine’s path**. Mine operators are **increasingly installing** these **proximity detection systems** on mining equipment in **surface** and **underground mines** to prevent **pinning**, **crushing**, or **striking accidents**.

### Collision Warning and Collision Avoidance Systems

The **following manufacturers** have developed **collision warning** and **collision avoidance systems** for use in **surface mines** and **metal** and **non-metal underground** mines.

- [Becker Mining Systems](#)
- [Caterpillar](#)
- [Hexagon](#)
- [Ifm Efector](#)
- [Modular Mining Systems, Inc.](#)
- [Newtrax](#)
- [PBE Group](#)
- [Preco Electronics](#)
- [Provox Inc.](#)
- [Septentrio](#)
- [Strata Worldwide](#)
- [Wabtec / GE Transportation](#)

### Additional Information

- [General Inspection Procedures for Proximity Detection Devices](#)
- [NIOSH: Mining Topic: Proximity Detection](#)

For **further information** on **Proximity Detection Systems** and **current research**, please contact **Technical Support’s Patrick Retzer** for **equipment approvals**, at [retzer.patrick@dol.gov](mailto:retzer.patrick@dol.gov) and **Matthew Wharry** for **equipment implementation**, at [wharry.matthew@dol.gov](mailto:wharry.matthew@dol.gov).



**MSHA Technical Support Engineers** reviewed product **information** from these **manufacturers** and believes that the **products** have the potential to **reduce** certain collision **related hazards**.

However, **MSHA is not endorsing** these **manufacturers** or their **products** because **MSHA** has **not tested** nor **approved** these **products**. Each mine has **unique conditions** and **features**; therefore, **MSHA suggests that** mine operators **evaluate** or **test products** to determine the **product’s potential** to **reduce hazards** at their **mine**.

# How To Avoid Welding Hazards



## Exposure to Fumes and Gases

- Welding operators should always wear an approved respirator unless exposure assessments are below applicable exposure limits.
- Report concerns to a supervisor so your exposure to substances of the welding fumes can be checked.

## Physical Hazards

- Wear appropriate PPE like welding helmet and goggles to protect workers' eyes and head from hot slag, sparks, intense light, and chemical burns.
- Fire and electricity resistant clothing, hand shields, welding gloves, aprons, and boots can be worn to protect workers from heat, fires, electrocution, and burns. Take note that flame retardant treatments become less effective with repeated laundering. Pant legs must not have cuffs and must cover the tops of the boots. Cuffs can collect sparks.
- Earmuffs and earplugs can also protect workers against noise.

## Electric Shock

- Inspect welding equipment and electrode holder before proceeding to work.
- Perform lockout and tag out procedures when performing repairs. Only qualified repair technicians should service or repair welding equipment.
- Do not touch the metal parts of the electrode holder with skin or wet clothing.

## Fire and Explosion

- Keep a suitable Class ABC fire extinguisher nearby while welding. Make sure the extinguisher gauge is full. If an extinguisher is not available, be sure to have access to fire hoses, sand buckets or other equipment that douses a fire.
- If welding within 35 feet of flammable materials, put a piece of sheet metal or fire-resistant blanket over the flammable material and have a fire watcher nearby to keep track of sparks.
- Remain in the work area for at least 30 minutes after finishing welding to ensure there are no smoldering fires.

**OSHA Quick Card - Safe Forklift Operation [pdf](#)**

# Working in Outdoor and Indoor Heat Environments

## Overview

Millions of **U.S. workers** are **exposed to heat** in their workplaces. Although **illness** from exposure to heat is **preventable**, every year, **thousands** become **sick** from occupational **heat exposure**, and some **cases** are fatal.

Most **outdoor fatalities**, 50% to 70%, occur in the **first few days** of working in warm or **hot environments** because the body needs to **build a tolerance** to the heat **gradually over time**. The process of building **tolerance** is called **heat acclimatization**. Lack of **acclimatization** represents a **major risk factor** for **fatal outcomes**.

Occupational **risk factors** for **heat illness** include **heavy physical activity**, warm or **hot environmental conditions**, lack of acclimatization, and **wearing clothing** that holds in **body heat**.

**Hazardous heat exposure** can occur **indoors** or **outdoors**, and can occur during **any season** if the **conditions** are right, not only **during heat waves**. [See a list](#) of some **industries** where workers have **suffered heat-related illnesses**.

## Resources

[OSHA's Occupational Exposure to Heat page](#) explains what **employers** can do to **keep workers safe** and what workers need to know - **including factors** for heat illness, **adapting** to working in **indoor** and **outdoor heat**, protecting workers, **recognizing** symptoms, and **first aid training**. The page **also includes** resources for **specific industries** and **OSHA** workplace standards. Also look for **heat illness educational** and **training materials** on the [Publications page](#).

Every year, **dozens of workers** die and **thousands** more become **ill while working** in extreme **heat** or humid **conditions**. There are a **range of heat illnesses** and they can **affect** anyone, regardless of age or **physical condition**.

## Employer Responsibility to Protect Workers

Under **OSHA** law, **employers are responsible** for providing **workplaces** free of **known safety hazards**. This includes protecting **workers** from **extreme heat**. An employer with **workers exposed** to high **temperatures** should establish a **complete heat illness prevention program**.

- ▶ *Provide workers with water, rest and shade.*
- ▶ *Allow new or returning workers to gradually increase workloads and take more frequent breaks as they acclimatize, or build a tolerance for working in the heat.*
- ▶ *Plan for emergencies and train workers on prevention.*
- ▶ *Monitor workers for signs of illness.*