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**CARRIER TESTS PROPOSED HOURS RULES**

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**Lawmakers Call on LaHood to Abandon Proposed HOS Changes**

A bipartisan group of Congressmen and Senators have called on the Obama administration to abandon its Hours of Service proposal and retain the current, effective safety rules. [Read more....](#)

**Safety Pro in a Box**

These compliance assistance materials that form the basis of the concept of a "Safety Pro in a Box" are intended to provide meaningful compliance assistance to new operators in the aggregates industry. [Read more....](#)

**Vintage photo....Bridal Veil – Georgetown** [Take a look....](#)

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- Trucker.com
- Transport Topics
- Occupational Health & Safety online
- LandLine
- TruckingInfo.com
- eTrucker.com
- OSHA.gov
- US Dept of Interior/Office of Surface Mining
- miningbureau.com



## OSHA/CONSTRUCTION

# OSHA Looks Back on 2010 Enforcement Efforts

From **OSHA's** perspective, **enforcement remains vital** to workplace safety and health. To **accomplish its mission in reducing workplace injuries, illnesses, and fatalities**, the agency has been **targeting the most hazardous workplaces and employers** with the highest injury and illness rates using **innovative enforcement approaches**.

Programs such as the **Severe Violator Enforcement Program (SVEP)** that were introduced in 2010, as well as **penalty structure changes** and **increased inspection activity** have enabled the agency to **effectively use its resources to identify serious hazards and employers who intentionally violate OSHA standards**. As a result, there has been an **increase in the number of violations** that the agency has issued over the past five years — **22.1% more serious violations, 217.1% more willful violations, and 8.1% more repeat violations** have been issued. In FY 2010, **OSHA** found 96,742 violations of **OSHA's** standards and regulations in the nation's workplaces, a **15.3% increase since FY 2006**.

### OSHA Inspection Activity Remains Vigorous and Proactive

**OSHA continues to maintain** its high level of annual inspection activity. In FY 2010, **OSHA** conducted 40,993 total inspections. This number includes **164 significant and egregious (instance-by-instance) enforcement actions**, each resulting in a **total proposed monetary penalty of more than \$100,000**.

In addition, **OSHA** conducted 24,759 programmed inspections. These inspections indicate that **OSHA devoted more resources to proactively target** the industries and employers that experienced the greatest number of workplace injuries and illnesses.

**OSHA** also conducted 16,234 unprogrammed inspections, including **employee complaints, accidents, and referrals**. The number of fatality investigations **decreased by 25.6%** — a **significant decrease over the past five fiscal years**.

### Criminal Referrals

As for referrals to prosecutors under Title 29 of the United States Code, Section 666(e) — for **employee deaths caused by willful conduct violating an OSHA standard**, obstruction of justice, **state and local investigations and prosecutions**, and fraud related to other **OSHA matters, such as training verification** — the agency referred **10 in 2007, 14 in 2008, 11 in 2009, and 14 in 2010**.

## CPSC Launches New Consumer Product Safety Information Database

The U. S. Consumer Product Safety Commission (CPSC) goes live with the **SaferProducts.gov** database mandated by Congress, as part of the **Consumer Product Safety Improvement Act**.

Consumers are encouraged to visit [www.SaferProducts.gov](http://www.SaferProducts.gov) to submit reports of **harm or risks of harm**, and to search for safety information on products **they own or may be considering buying**.

Reporting **product safety incidents** through this new, **easy-to-use site** will help **CPSC identify product hazards quicker** and provide consumers with **safety information on products in and around the home**.

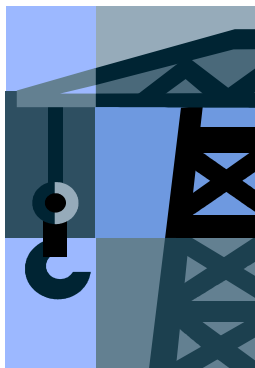
**"We will continue to accept written, phone and fax Reports, as we have for decades,"** said Chairman Tenenbaum. **"What is new and significant today is that we are launching an up-to-date system for letting consumers review safety reports alongside manufacturer comments about those Reports."**

## OSHA Issues Guidance Document to Help Small Businesses Comply with Cranes and Derricks Rule

OSHA just issued a document called the [Small Entity Compliance Guide for Cranes and Derricks in Construction](#) to help businesses comply with the recently published Cranes and Derricks in Construction rule.

Topics that the new document addresses are:

- Employer responsibilities
- Scope
- Definitions
- Ground conditions
- Assembly and disassembly
- Power lines
- Inspections
- Wire rope inspections
- Wire rope selection and installation criteria
- Safety devices and operational aids
- Operation
- Authority to stop operation
- Signals
- Fall protection
- Work area control
- Free fall and controlled load lowering
- Operator qualification and certification
- Signal person qualifications
- Qualifications of maintenance and repair employees
- Training
- Hoisting personnel
- Multiple crane/derrick lifts
- Design, construction, and testing
- Equipment modifications
- Tower cranes
- Derricks
- Floating cranes/derricks and land cranes/derricks on barges
- Overhead and gantry cranes
- Dedicated pile drivers
- Sideboom cranes
- Equipment with a rated hoisting/lifting capacity of 2,000 pounds or less



OSHA published the rule in August 2010 to address the number of worker injuries and deaths associated with the use of cranes and derricks in construction. The rule also addresses technological advances in equipment since the old rule was issued in 1971.

"Over the past four decades, we've continued to see a significant number of worker injuries and deaths from electrocution, crushed-by and struck-by hazards while performing cranes and derricks operations," said Assistant Secretary of Labor for Occupational Safety and Health Dr. David Michaels. "This guide will help employers understand what they must do to protect their workers from these dangerous, sometimes fatal incidents."

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## Scientists Study the Latest in Hearing Protection Research

Leading experts from the National Institute for Occupational Safety and Health (NIOSH) have contributed to a special edition of the peer-reviewed journal *Noise and Health* on state-of-the-art research on hearing protection devices.

Hearing protectors such as earplugs are used in hearing conservation programs to prevent work-related hearing loss where dangerous workplace noise exposures have not yet been controlled or eliminated.

Repeated exposures to loud noise can lead to permanent, incurable hearing loss or tinnitus. Work-related hearing loss is irreversible but preventable. An estimated 30 million workers in the U.S. are exposed to levels of noise that pose risks for work-related hearing loss.

Challenges workers face in choosing and using proper hearing protection include:

- Proper fit testing of hearing protectors;
- Determining the performance of different types of hearing protectors in reducing noise exposure.
- Addressing potential discomfort from hearing protectors, which can impeded their proposer use; and
- Developing appropriate, effective training programs for use of hearing protectors.

"Hearing protectors are critical components of hearing-loss prevention in many workplaces, but in order to offer adequate protection, they must be selected and used properly," NIOSH Director John Howard, M.D., noted.

"NIOSH and its partners lead national research to develop findings and recommendations that help health and safety professionals, employers, and workers to make those important decisions."

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## FMCSA Readies 23,000 Letters Warning of CSA Deficiencies

The **Federal Motor Carrier Safety Administration** has begun sending an **initial batch of 23,000 Compliance, Safety, Accountability** program warning letters to fleets as the agency **begins concrete interventions in its new program.**

Over the next several months, a **total of at least 50,000 warning letters** will be sent, Boyd Stephenson, manager of safety and security for American Trucking Associations, told Transport Topics. **Warning letters** advise carriers that their performance **merited "alert" status** by falling **below acceptable levels** on at least one of **CSA's Behavior Analysis and Safety Improvement Categories, or BASICS.**

Those **BASICS**, such as **unsafe or fatigued driving**, form the statistical heart of **CSA's** safety measurement system, which **assigns a percentage ranking** on each **BASIC** and establishes thresholds. Warning letters are sent when threshold levels are exceeded.

*"A review of [carrier name] safety data shows a lack of compliance with motor carrier safety regulations and suggests that your safety performance has fallen to an unacceptable level,"* John Van Steenburg, director of **FMCSA's** Office of Enforcement and Compliance, writes in these alert letters.

Agency spokeswoman Candice Tolliver said **both trucking and bus companies** will receive letters **over the next two months**, but she **couldn't say exactly** how many went to **truck fleets**. About 8% of carriers will receive warning letters, based on **FMCSA** statistics that count 650,000 carriers.

Stephen Keppler, executive director of the Commercial Vehicle Safety Alliance, said the **warning letters are an important step** because they quadruple the number of carriers facing active **FMCSA** intervention. Under the former **SafeStat** system, the agency **took action against just 2% of carriers.**

Keppler said it was **difficult to judge industry safety levels** based on the number of warning letters **because there is no earlier point of comparison** to show whether progress was being made. **Warning letters can be followed** by off-site or on-site investigations if **carriers' performance doesn't improve.** There is **no time limit** for responding to the letters.

The **agency's enforcement options** include **creation of a cooperative safety plan**, imposition of civil penalties, **suspension or revocation** of vehicle registration or **revocation of operating authority.**

**"Just because you get a warning letter doesn't mean you are a bad carrier,"** Keppler said, noting that the **agency's tightest focus** will be on **7,900 highest-risk carriers** with the worst safety performance. **"The important thing** is that folks who get these things **pay attention,"** adding that he was **encouraged that more than half of carriers** who received warnings during the **CSA** pilot test period **took effective remedial action.**

**"Our message to members...if you are in alert status, don't freak out,"** said Joe Rajkovicz, director of regulatory affairs for the Owner-Operator Independent Drivers Assoc. He said the **letters were an expected step**, based on the **gradual implementation of CSA.**

**FMCSA** chose the gradual approach to mailing the letters, ATA's Stephenson said, because **"the agency was concerned about overwhelming** both the industry and **their own staff** by sending them out all at once."

**Fleets receiving the letters** are subject to **increased roadside inspections.** To **help fleets improve compliance**, the agency posted a **"tip sheet"** on its website that advises what they can do after a letter arrives.

**Fleets are advised** to conduct a **detailed analysis of their safety data** and **take steps** to improve compliance. **Those steps include checking data** for accuracy, **correcting any errors**, understanding the **Safety Measurement System** used to compute the scores and using a detailed analysis **to improve compliance.**

Meanwhile, a **new report highlighted FMCSA's** plan to sharply increase funding and staffing for **CSA.** The Feb. 25 report by the **Government Accountability Office** said the agency **requested \$78 million** in its **CSA** budget for fiscal 2012, compared with **\$9.5 million it spent in fiscal 2010.**

The report was **requested** by the Republican and Democratic **chairmen of the congressional transportation appropriations subcommittees** as well as their ranking minority members, who **expressed concern** about past funding levels.

In total, **FMCSA** contemplates having **696 employees working full time** on the program, the report said. **By comparison**, 45 people worked on the program in 2009, with just five of them full-time employees.

# DOT Issues Tougher Hazmat Shipping Rule;

*.....allows Department inspectors to close down shipping companies with poor safety records.....specifically authorizes inspectors to take immediate action when there is a significant "package in transit" safety problem. This includes ordering restrictions, bans, or immediate recalls of faulty packages. With these new provisions, inspectors will be able to temporarily detain and inspect packages that may pose a serious threat to life, property, or the environment.*

The U.S. Department of Transportation's **Pipeline and Hazardous Materials Safety Administration (PHMSA)** announced that Department inspectors will **now have greater authority** when it comes to **ensuring the safety** of hazardous materials in the stream of transportation. The **new rule**, which implements authority granted by Congress, **allows inspectors to investigate shipments** of hazardous materials during transport and take **tougher enforcement action** against companies shipping in an **unsafe manner**.

**"Safety is the Department's number one priority**, and this rulemaking will give our inspectors the tools they need to **ensure hazardous materials are packaged correctly and reach their destination safely**," said U.S. Transportation Secretary Ray LaHood.

**Department inspectors** will also be able to **immediately open packages** even if the **request to open them is refused**. However, if a **particular package is detained**, the **rest of the shipment may continue in transit**.

**"This rulemaking is another step** in ensuring the **safe transportation** of hazardous materials by providing our inspectors the authority to **conduct thorough investigations**, to remove non-compliant packages from transportation, and to **recall packages** that could **pose a significant threat to the public and the environment**," said **PHMSA Administrator Cynthia Quarterman**.

The **rule applies** to U.S. Department of Transportation inspectors in **PHMSA**, as well as the Federal Aviation Administration, **Federal Motor Carrier Safety Administration**, and Federal Railroad Administration.

The **final rule** is **scheduled** to become **effective May 1**.

## Groups' Comments Support Hands-Free Use of Cell Phones



Drivers and carriers want the **FMCSA** to leave responsible **hands-free** and **hand-held** use of cellular phones while driving alone because the entire trucking industry relies so much on wireless communication. By the deadline of Feb. 22, the **FMCSA** public docket had received 347 comments, ranging from a few sentences to a few pages.

### What commenters are saying:

#### Owner-Operator Independent Drivers Association:

"Indeed, cell phone use is no more distracting than other types of communications and electronic equipment used regularly by truck drivers such as in-cab fleet management devices, global positioning and other navigation systems, and Citizens Band (CB) radios that have not received the same level of scrutiny by FMCSA."

#### American Trucking Associations:

"Although generally supportive of the NPRM's restrictions on hand-held phone use, ATA urges FMCSA to continue to allow the use of hands-free mobile phone technology in the final rule. Prohibiting hands-free use would offer little, if any, safety value while severely hamstringing efficiency and negatively impacting driver morale."

#### Maryland Motor Truck Association:

"Push-to-talk technology with a cell phone is nearly identical to that of a CB radio, which FMCSA specifically exempts in its proposal. In fact, most companies now use push-to-talk with a cell phone in lieu of a CB radio because dialing can be achieved with the press of a single button, the communication range is greater, and the handheld device is wireless."

#### Dart Transit:

"A 'delinquent' CMV operator choosing to violate clear guidance of motor carrier direction that ends up in a serious situation should be solely liable for penalties and fines. ... We would suggest the penalty for a second violation of this regulation should be suspension for a minimum of 12 months. The NPRM suspension is too short so the penalty would not fit the crime."

#### Greg L. Baldwin:

"I think if the law is to be changed, then the hands free should be allowed. Pay phones hardly exist anymore, which would be needed in order to contact the company or in emergency situations. For the trucker, the cell phone has taken the place of the CB and is their lifeline to the company and also family. And they are much more efficient than the old CB system."

#### James F. Bullard:

"At times it is imperative that we contact our drivers to notify them about changes in their load scheduling. Taking away a driver's ability to communicate while on the road will severely cripple trucking operations."

#### Pamela Lynn Lyons:

"If someone had their way, all that drivers would be allowed to do would be to stare straight ahead and do nothing but drive. And this is not wise. I believe that more would be hypnotized by that white line more so than now. Hands-free is the way to go!"

#### Rick A. Hoogendoorn:

"We are still operating in very tough economic times, and cell phones have been a huge benefit in controlling costs and increasing efficiency. To discontinue their use will only cause more miles to be driven, more fuel to be consumed, and more traffic congestion."

# FMCSA Drops Cargo Insurance Requirement for Freight Forwarders and For-Hire Carriers

The **Federal Motor Carrier Safety Administration** said it **no longer will be necessary** after March 21 for freight forwarders and for-hire carriers to **maintain a minimum level of insurance** for cargo that is lost or damaged in transit. The agency said it is **removing the insurance requirement**, which provides coverage **up to \$5,000 per vehicle or \$10,000 per incident**, because it is no longer necessary to **protect the interests of most shippers**. The **rule remains in effect**, however, for carriers/forwarders of **household goods**.

**“FMCSA does not believe** it is necessary to **mandate cargo insurance requirements** for the benefit of most commercial shippers,” the agency said in a notice published in the Federal Register last year. The **cargo insurance requirement** applies to **less than half** of regulated for-hire carriers, the agency noted.

Robert Pitcher, vice president of state laws for American Trucking Associations, said **most carriers will provide cargo insurance to shippers that request it**. “It will eliminate some paperwork, but we **couldn’t find anybody who thought it was a big deal**.”

**However**, in comments filed with the agency, **ATA argued** that the cargo insurance requirement should apply to **all carriers or none**.

**“ATA does not support** extension of the cargo insurance requirement to all motor carriers and thus believes **FMCSA’s** proposal to **eliminate** the cargo insurance requirement is the **right approach**,” the organization said in its comments to the agency.

The **proposal drew opposition** from shipper groups and freight brokerage firms. They argued that **eliminating** the cargo insurance requirement **removes a key tenet of financial responsibility** for freight carriers and will make it **harder for small-volume shippers** to recover losses if a carrier goes out of business or is **unable to pay claims**.

“A lot of small trucking companies are **not going to buy** cargo insurance if they **don’t have to**,” said Ira Lipsius, of Schindel, Farman, Lipsius, Gardiner & Rabinovich, a New York law firm. In 1937 Kal Schindel **helped to craft “Form 32”** for the Bureau of Motor Carriers-it was extended to freight forwarders in 1944.

Lipsius said insurers have paid **“tens of millions of dollars”** in **BMC-32 claims** over the years. It is unclear how the **rule change** will affect **market demand** for cargo insurance.

**Officials** at the Inland Marine Underwriters Association, a New York-based trade association representing cargo insurers, termed the **demise of BMC-32 “an end of an era”** and warned that **mass cancellation of policies** could overload the system.

Sam Rizzitelli, **national transportation director** at Travelers Insurance in Hartford, Conn., said shippers will have to **consider insurance risk** in choosing the carriers they **want to do business with**. “A lot of shippers have in their contracts a **requirement** to have this kind of insurance in place,” he said.

Most standard cargo insurance policies carry between **\$1,000 and \$5,000 deductible**, which means that shippers will **have no choice** but to collect directly from the carrier for **small losses**.

Announcing the final rule last year, **FMCSA** said the transportation industry has **changed significantly** since the **original rule** was put in place, and “the **ability** of commercial shippers to **negotiate the terms** of their transportation arrangements has been significantly enhanced.” In fact, the cargo insurance requirement may have **allowed commercial shippers** and for-hire motor carriers to conduct business in **economically inefficient ways**. “Shippers and motor carriers may have been **taking risks** they probably **would not have taken**, absent the **BMC-32 endorsement**,” **FMCSA** said. “Carriers also **may not** have been **spending adequately** on **cargo anti-theft/anti-damage systems**, including training carrier personnel.” With the change, **FMCSA** believes that the market “will improve itself.”

A **survey of insurers** found that the **typical cargo policy** provides \$50,000 to \$100,000 in liability coverage, **FMCSA** said. **Regardless** of whether a carrier has insurance, for-hire carriers can be **held liable** for any loss or damage to cargo **under existing statutes**. The law also allows carriers and shippers to **negotiate a limit** on the **value of a load** for insurance purposes. And shippers can purchase **insurance directly**, rather than rely on motor carriers or forwarders to **provide** such coverage.

“The only shippers considered **in need** of the **protection provided** by the requirement are individuals who **arrange to move their own** household goods. They are **less** knowledgeable about carrier liability requirements and **need** the **protection** afforded by the existing regulations.”

# FMCSA Expands Pre-Employment Screening Program

The **Federal Motor Carrier Safety Administration** added a new feature to the screening program that gives carriers a look at the history of a driver who is applying for a job. The agency is making data available on co-driver safety and post-crash violations, in addition to the roadside inspection and crash records that employers already can see. The agency said it also has begun showing the date that a driver's safety records were updated.



The Internet based [pre-employment screening program](#) gives employers five years of an applicant's crash history and three years of his inspection history - with the driver's permission.

The data is drawn from the Motor Carrier Management Information System and includes the same information that is used by agency staff and state police for enforcement. Drivers have access to the information, as well, and can make the report a part of their application if they wish.

There is a charge to use the system. Carriers with fewer than 100 power units must pay a \$25 annual subscription fee and \$10 for each record retrieved. Companies with more than 100 power units must pay a \$100 subscription fee, plus the \$10 per-record fee. Both are limited to 10 users.

In another development, the agency said it is strengthening protections for consumers who use household goods brokers. Under the new rule, by Jan. 1, 2012 brokers must provide consumers with estimated charges and brokerage fees, as well as a list of the carriers that will be used, among other information. Brokers also must increase their surety bonds to the new minimum of \$25,000.



## CARRIER TESTS PROPOSED HOURS RULES

During a four-week test of proposed changes in hours of service rules, Werner Enterprises driver Alan Parker said he was less productive, more stressed and wasted time. Parker made his comments at an HOS listening session Feb. 17 held by the **FMCSA**. Many drivers and industry trade groups have criticized the proposal as too complex and unnecessary.

*Parker, a 24-year driving veteran, was asked by Werner to conduct the experiment, record differences in his work and comment on the changes. "In my experience having 10 hours a day to drive caused me to stop sooner and start my day sooner," said Parker about the proposal to reduce daily driving to 10 hours from 11. He said he had to start as early as 2:30 a.m. compared with 5 a.m. when he would normally start.*

*During a route that runs from Nebraska to Utah, Parker drove 1,837 miles over 30.75 hours of drive time. Under the 10-hour provision, it took him three full days + part of a fourth to complete the run. Under 11 hours, it takes him less than three days to do the same route, "with less stress and less pressure. It gives me that little bit of leeway I might need."*

*On the proposal to extend the work window from 14 hours to 16 with a three-hour break, Parker wasn't able to test it to meet current hours regulations. Twice, he said, it would have been welcome, including once when he had to wait five hours at a shipper's location. "This is the only part of the new proposal I think would be a benefit to a driver."*

*Parker said when he's on the road, extra time off from driving "doesn't mean more rest, it usually means more stress. If a driver could take a two-hour break and it not count against his 14-hour clock, that would encourage him to take a nap through the day. Instead we drive tired once in a while because we have the miles." Taking a proposed required 30-minute break twice a day was inconvenient, Parker said. One day, he had to stop 45 minutes from his home to take a 30-minute break. He said he was able to take the break at a location he knew would allow him to stop, but many drivers would be forced to search for a place to stop in an unfamiliar area.*

*Parker proposed being able to combine 15 minutes of off-duty time, such as fueling, with another 15 minutes to make a 30-minute break to make better use of time.*

*On the proposed 34-hour reset including two midnight to 6 a.m. periods, Parker said the period is likely to stretch into 50 hours or more. In his test, he arrived home later than usual and was required to wait longer to get in the early morning periods before departing.*

*Parker concluded that if the HOS rules are changed, "It would affect me in being a productive driver. In the past 30 days, I can account for three days of production that I lost. It would also affect me being a safe driver by causing me to start my days earlier because I have to stop earlier because of my 14-hour clock running out."*

# Lawmakers Call on LaHood to Abandon Proposed HOS Changes

A bipartisan group of **Congressmen and Senators** have called on the Obama administration to **abandon its Hours of Service proposal** and **retain the current, effective safety rules.**

"The rules currently in place are **working well and do not need to be changed,**" 122 Representatives wrote to Transportation Secretary Ray LaHood. "**Since the current rules were implemented seven years ago,** the trucking industry's **safety performance** has improved at an **unprecedented rate.**"

The letter notes that **since the rules went into effect in 2004,** the number of **fatal and injury crashes** involving large trucks have **fallen to historic lows,** even as trucks hauling the nation's food, fuel, medicine and other goods have **driven almost 10 billion more miles.**

"**If the proposed changes** are put in place, companies will be **forced to increase the number of trucks** on the road necessary for delivering the same amount of freight; adding to **final product costs** and **increasing congestion** on our nation's highways," a group of 23 Senators wrote in their letter to LaHood.

The lawmakers added that the **proposed rules** are much **more opaque and complex** than the current standards and "**such complexity will only serve to hamper both industry compliance and motor carrier enforcement.**"

The letters also referred to **small business truckers,** who "**would be especially hard hit.**" "**It is increasingly clear** that this proposal is the **result of political pressure** and not a **fair interpretation of trucking's safety record,**" American Trucking Associations President and CEO Bill Graves said. "**ATA appreciates that some politicians** are basing their views not on politics, but on the **hard evidence** that the **current hours of service rules are working.**"

Asked for a response from LaHood, and **whether such a letter was unusual or significant,** a DOT spokesman noted that input from "**elected officials, trucking groups, safety advocates and the public**" all would be taken into account.

**Among those signing the House letter** were **21 members** of the Transportation and Infrastructure committee, all Republicans. **Other prominent signatures** were those of Majority Leader Eric Cantor and Chairman of the House Committee on Oversight and Government Reform Darrell Issa, who has **criticized** the Obama administration for **pushing regulations that are harmful to economic growth and job creation.** T&I Chairman John Mica and highways subcommittee Chairman John Duncan, however, **did not sign.**

**On the Senate side,** Republicans John Thune, John Ensign, and Roy Blunt of the Commerce Subcommittee on Surface Transportation signed; from the **Appropriations subcommittee on transportation,** along with Blunt, were Dan Coats, Lamar Alexander, and Richard Shelby. Olympia Snowe, ranking member of the Senate Committee on Small Business and Entrepreneurship, **also signed.**

## More Comments on HOS...

**Efforts to block changes in hours-of-service gained steam** as the agency approached the March 4<sup>th</sup> closing of the comment period on the proposal.

**American Trucking Associations** released a statement **saying that FMCSA misrepresented the findings** of a fatigue expert **whose analysis was used to justify the proposed changes.**

As Transport Topics went to press on March 3, **about 11,000 comments had been received,** many of them from **individual drivers and fleets** that urged **FMCSA not to impose changes** that would **add mandatory rest times** and **cut the maximum driving time** to 10 hours from the current 11.

As of March 3, groups such as Public Citizen that **challenged the 2003 rule and forced the FMCSA** to write a new proposal, **hadn't yet submitted** their comments. Allies of Public Citizen on the issue such as Advocates for Highway and Auto Safety and the Teamsters union also hadn't made their submissions.

During a Feb. 17 **FMCSA** listening session, Henry Jasny, general counsel for Advocates, said, "**The proposed changes will make highways safer** and reduce truck driver fatigue by **limiting the excessively long hours driven by some drivers.**" Speaking also for Public Citizen, Jasny observed that **auto safety has improved** at a faster pace than trucking safety. The HOS proposal is a **step "in the right direction."**

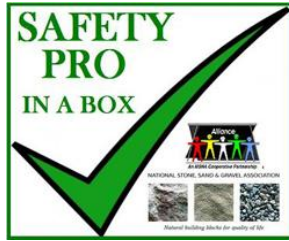
**However, on the research front,** ATA released statements from Dr. Francesco Cappuccio, a **physician and professor at a British medical school** who co-authored a 2007 study cited by **FMCSA** to justify its proposed changes. His 10-page report, released by ATA, stated that the **research, including his review of 16 academic studies of sleep length, quality and mortality,** can't be used to **justify the estimated \$690 million** in benefits cited by **FMCSA.** The **evidence doesn't support the FMCSA's** conclusions that **adding even a few minutes of sleep** will reduce the risk of mortality. In addition, he said there was "**no evidence to prove,** that without additional measures, a **simple reduction in work hours** will result in **increased sleep time.**"

**Commenting on the medical study,** Graves said, "The fact that this **prominent physician and sleep researcher** clearly states the **agency is wrong to use his and others work** in this way **clearly exposes the serious flaws** in this proposal."

**FMCSA** spokeswoman Candice Tolliver said its proposal "**specifically asks** for the public to provide robust feedback, comments and questions and looks forward to addressing them in the final rule."

## Safety Pro in a Box

These compliance assistance materials that form the basis of the concept of a "Safety Pro in a Box" are intended to provide meaningful compliance assistance to new operators in the aggregates industry.



At this critical point, it is essential that mine operators do all that's possible to fully comply with safety and health regulations and standards. Furthermore, these compliance materials should be seen as just a 'floor' in the on-going effort to make aggregate workplaces as safe and healthy as possible.

All of these training materials have been produced by the Mine Academy of the U.S. Mine Safety and Health Administration (MSHA). Representatives of the National Stone, Sand and Gravel Association (NSSGA) worked with Academy officials to cull MSHA's vast instructive resources to pull out these materials that can provide specific and substantial compliance assistance to mine operators.

We must note that – while very instructive – these materials do not cover all elements needed for full compliance with MSHA regulations and standards. We encourage you to contact your local MSHA district or field office for additional information.

NSSGA members may direct any questions to Joseph Casper, NSSGA vice president for safety.

He can be reached at (703) 526-1074 or [jcasper@nssga.org](mailto:jcasper@nssga.org).

**Please note:** This product was developed as part of the MSHA Alliance Program. It does not necessarily reflect the official views of MSHA. The MSHA Alliance Program is to promote miner safety and health through voluntary partnerships, which provide training and education, outreach, technical assistance, and a national dialog on mine safety and health. For more information, contact MSHA at (202) 693-9414 or <http://www.msha.gov/alliances/alliances.htm>.



## Mining Accident

A crusher operator, age 33, died in November of 2010, while **performing maintenance on an over-the-road truck**. The victim and a co-worker were working under the **rear portion of a ten-wheeled truck that was suspended by rigging attached to a hoist**. The **chain sling holding the truck slipped off the free end of the pintle-type hitch at the rear of the vehicle frame and released the load**. **The truck fell, striking the victim and the other miner who was seriously injured**.

The accident occurred because management **had not developed policies and procedures to provide safe practices when persons worked around or under equipment in a raised position**. The truck was **not blocked** to prevent it from accidentally falling. Additionally, a **safety latch was not provided for the hook of the chain rigging**.

On the day of the accident, the victim reported for work and met with co-workers and the mechanic to perform maintenance on this truck. At approximately 7:30 a.m., they installed the third member gearbox in the rear axle assembly on the truck. The crew had removed and rebuilt this gearbox the previous day. At 1:00 p.m., with the truck **raised about 30 inches off the ground**, the crew continued making repairs. They **finished installing the third member gearbox and noticed the rear right leaf spring was loose**. An employee knelt under the rear end of the truck and used a torch to heat the nuts on the leaf spring U-bolt while another used a pneumatic impact wrench to tighten the nuts. This employee stepped out from under the truck as the mechanic started heating the nuts on the U-bolt. One victim was sitting under the truck between the third member gearbox and the rear wheels of the truck.

When the accident happened, an employee heard **a pop and immediately turned to see the truck fall** on the victim. As he pulled the injured victim out from under the truck, he noticed **that the deceased had been struck as well and was not responsive**.

### WHAT WENT WRONG? CHAIN SLING

The tag on the chain sling **involved in the accident indicated it was a DOSA-type**. This designation indicates that **it was a double (D) sling with an oblong (O) master link and had sling-type hooks (S)**. The last letter **(A)** indicates the style **(A or B)**, which dictates the **respective chain lengths**. The tag lists the chain size as 3/8-inch which was confirmed by direct measurement. In short - the employees may not have been trained in using chains and slings and certainly not for the purpose of lifting a truck for maintenance.

Although the chains were appropriately configured to **accommodate them, neither of the two sling hooks was fitted with a safety latch**. Based on the markings and measurements, the **rigging hardware between the gantry crane hook and the trailer hitch pickup point** (i.e., the master link, the chain and sling). **The load lifted did not exceed the lifted capacity of the rigging hardware**.

**Even with seemingly appropriate equipment - one man died and another was left injured. Safety precautions, programs and training MUST be considered before any employee attempts to tackle a non-routine task**. The root cause of this accident was management's lack of policies, procedures and the failure to place controls that ensure the safety of employees. In this case, the truck was not blocked or mechanically secured to prevent it from falling or rolling accidentally.

