



Happy Holidays from all of us at MJS SAFETY

OSHA/CONSTRUCTION NEWS SUMMARY

GAO RELEASES REPORT ON UNDER-REPORTING OF WORKPLACE INJURIES

The U.S. Department of Labor's **Occupational Safety and Health Administration (OSHA)** has recently reviewed the **Government Accountability Office's (GAO) report on the under-reporting of workplace injuries and illnesses** and **OSHA's** audit process. [Read more....](#)

Unscrupulous Vendors Market Unapproved Flu Disinfectant Products

The EPA is warning consumers to beware of unscrupulous vendors who may market ineffective and unregistered products or services that claim to disinfect surfaces or entire rooms against the H1N1 influenza virus. [Read more....](#)

ALL Employers Must Record Work-Related H1N1 Cases if they Meet Recording Criteria

According to a recent posting on OSHA's website, all employers covered by Part 1904 are responsible for recording cases of 2009 H1N1 illness if all of the following requirements are met: [Read more....](#)

Ejected Machine Part Kills Worker, Draws \$511,000 in Penalties

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MSHA NEWS SUMMARY

New Technologies for Accident Prevention

Through the use of new technology, the mining industry is **realizing gains** in the areas of **employee safety and health**. **MSHA** is promoting the use of **new technologies** to prevent accidents, illnesses, and injuries to miners. [Read more....](#)

MONTHLY SAFETY TIP NEWS SUMMARY

MEDICAL MARIJUANA

Nationwide, the spread of **ALCOHOL** and/or **CONTROLLED SUBSTANCE ABUSE** has become a **major problem** for employers in all sectors of industry. This practice not **only jeopardizes the user**, but all persons who remotely come in contact with that person during a work period. [Read more....](#)

MJS SAFETY TRAINING SUMMARY

MJS SAFETY ONLINE TRAINING COURSES [Read more....](#)



GAO RELEASES REPORT ON UNDER-REPORTING OF WORKPLACE INJURIES

The U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) has recently reviewed the Government Accountability Office's (GAO) report on the under-reporting of workplace injuries and illnesses and OSHA's audit process.

The report identifies a number of factors that may contribute to the inaccuracy of employer injury and illness records, as well as problems with the audits that OSHA conducts to ensure their accuracy. The report identifies worker intimidation as well as a number of disincentives that may discourage workers and employers from reporting work-related injuries and illnesses and also notes widespread reports from occupational health practitioners who were pressured not to record an injury or illness.

The acting Assistant Secretary for OSHA announced that the agency will move swiftly to implement the recommendations made by the GAO. Additionally, in response to numerous studies of under-reporting and congressional interest, on Oct. 1, OSHA implemented a National Emphasis Program on Recordkeeping. OSHA will send inspectors into worksites across the country to review the occupational injury and illness records prepared by businesses.

Employers with 10 or more employees are required to maintain the OSHA Form 300Log of Work-Related Injuries and Illnesses,

300A Summary of Work-Related Injuries and Illnesses, and 301 Injury and Illness Incident Reports on an annual basis.

Beware - OSHA has made it clear that they will be taking strong enforcement action against businesses that under-report job related injuries and illnesses.

Unscrupulous Vendors Market Unapproved Flu Disinfectant Products

The EPA is warning consumers to beware of unscrupulous vendors who may market ineffective and unregistered products or services that claim to disinfect surfaces or entire rooms against the H1N1 influenza virus.

"Americans need to be aware of what they may be buying. Unfortunately some vendors may try to take advantage of people's fears at a time like this and market products that aren't effective or make unsubstantiated claims," said Steve Owens, assistant administrator for EPA's Office of Prevention, Pesticides and Toxic Substances.

The EPA registers disinfectants for use on hard surfaces, and when used according to label directions, such products will be effective against influenza A viruses, including the 2009 H1N1 pandemic strain. A list of more than 500 antimicrobial products registered by EPA for use against the influenza A virus and H1N1 on hard surfaces is available at <http://www.epa.gov/>.

ALL Employers Must Record Work-Related H1N1 Cases if they Meet Recording Criteria

According to a recent posting on OSHA's website, all employers covered by Part 1904 are responsible for recording cases of 2009 H1N1 illness if all of the following requirements are met:

- The case is a confirmed case of 2009 H1N1 illness as defined by CDC;
- The case is work-related as defined by 1904.5; and
- The case involves one or more of the recording criteria set forth in 1904.7 (e.g., medical treatment, days away from work).

Note: OSHA said in a recent **Compliance Directive** for high to very high occupational exposure risk to 2009 H1N1 influenza that, for purposes of OSHA injury and illness recordkeeping, illnesses due to the 2009 H1N1 influenza are not considered a common cold or seasonal flu. Therefore, the work-relatedness exception for the common cold or flu at 29 CFR 1904.5(b)(2)(viii) does not apply to these cases.

For more information, click [here](#)

Ejected Machine Part Kills Worker, Draws \$511,000 in Penalties

An OSHA investigation into a worker's death - caused by an ejected machine part - revealed that an industrial ventilation equipment manufacturer allowed its employees to work on dangerous equipment without safeguards.

According to OSHA, these workers were exposed to debris that was ejected while operating manual spinning lathes.

As a result, the agency issued seven instance-by-instance willful citations at \$70,000 each for failing to guard seven manual spinning lathes. A total of \$490,000 in proposed willful penalties.

Three serious citations were also issued with penalties totaling \$21,000 for a lack of adequate personal protective equipment for workers' faces, extremities and hands.

In response to the proposed penalties, acting Assistant Secretary for OSHA Jordan Barab said, "It is imperative that employers take steps to eliminate hazards and provide a safe working environment."

Safety Experts Urge Fleets to Analyze Data Ahead of CSA 2010

Trucking executives must start analyzing results of roadside inspections as the industry prepares for a radical change in the way the Federal Motor Carrier Safety Administration **FMCSA** evaluates the safety of fleets, according to safety experts.

Beginning in January, carriers will be able to see a compilation of safety violations by drivers based on results of state inspections and police reports. Then, later in the year, the same data will be used to compile new carrier safety fitness ratings.

The vice president of safety and security for the American Trucking Association urged executives to begin examining data on roadside inspections to detect violations that could result in enforcement actions, including possible revocation of operating authority, as part of **MESA'S Comprehensive Safety Analysis 2010** program slated to begin in July. "We are advising fleets to allocate more resources to checking this data."

The vice president of safety at Jet Express Inc., Dayton, Ohio, had similar advice for carriers. He said the new safety regimen will force carriers to exert more direct control over drivers' "roadside performance". "What the driver does on the highway will determine your safety rating. It's a huge game changer, the biggest change since the logbook in the 1930's."

Under CSA 2010, **FMCSA** will track safety violations in seven categories: unsafe driving, fatigue, driver fitness, drugs and alcohol, vehicle maintenance, loading and cargo securement and crash history.

Violations in the unsafe driving category, which includes speeding and other traffic infractions, and fatigued driving, which consists of violations of hours-of-service rules, will count the most in determining a carrier's safety fitness rating because they are more closely linked to the causes of crashes, according to the Department of Transportation.

Carriers are advised to do whatever is necessary to reduce the number of times their trucks are inspected and to correct deficiencies that could cause violations.... perhaps offering a bonus to drivers who get "clean" inspections.

By making it easier for inspectors and carriers to identify unsafe drivers, the new safety fitness rules are likely to reduce the overall supply of drivers. A similar tightening of driver availability occurred after the implementation of current driver hours-of-service rules in 2004. But "this goes much further in terms of impact than the HOS rules in 2004."

TO FIND OUT HOW YOU CAN IMPROVE YOUR
CARRIER SAFETY RATING
 AND BE BETTER PREPARED FOR
 IMPLEMENTATION OF THE
CSA 2010 PROGRAM
 CALL **MJS SAFETY**
 AT 800 966-8106

WE CAN HELP YOU REVIEW AND ANALYZE
 THE RESULTS OF ROADSIDE INSPECTIONS
 AND OFFER ASSISTANCE WITH
 IMPLEMENTING STEPS FOR
 REDUCING SAFETY VIOLATIONS

FMCSA Conducts First National Drug and Alcohol Strike Force; Commercial Drivers Found in Violation Taken Off the Road

The Federal Motor Carrier Safety Administration **FMCSA** announced **77 commercial bus and truck drivers** are off the road and **over 80 carriers face enforcement action** as a result of **FMCSA'S** first national drug and alcohol strike force.

From September 8 to September 18, 2009 **FMCSA** safety investigators examined the drug and alcohol safety records of commercial drivers employed by bus companies, including school bus drivers, interstate passenger carriers, hazardous material transporters and general freight long-haul trucking companies.

“Safety is the number one priority for the Department of Transportation. Parents need to know when they put their child on a school bus that the driver will get them there safely and that they are drug and alcohol free,” said U.S. Transportation Secretary Ray LaHood.

“Violators of our drug and alcohol policies have no business driving a commercial vehicle. Programs like the drug and alcohol strike force are helping remove the most dangerous offenders from our roadways.”

The **77 commercial drivers** who face the prospect of civil penalties for failing to adhere to federal drug and alcohol regulations can no longer operate a commercial motor vehicle and will likely face a monetary fine. Additionally, **84 commercial carriers face pending enforcement action** for violations such as using a driver that has tested positive for illegal drugs and for not instituting a drug and alcohol testing program.

The goals of the strike force were to identify motor carriers in violation of federal drug and alcohol testing requirements and to remove from the road commercial truck and bus drivers who jump from carrier to carrier to try and evade federal drug and alcohol testing and reporting requirements.

Both drivers and carriers will have an opportunity to contest the alleged violations and the amount of the civil penalties.

MJS SAFETY now offers multiple ONLINE TRAINING COURSES for OSHA Construction, General Industry, Environmental, Hazardous Waste & OSHA 10/30 HOUR OUTREACH TRAINING. Public Safety, DOT, Human Resource, Storm Water, & ISO Training Courses are also offered. All courses are available online at <http://www.mjssafety.com> These affordable online courses provide a convenient way for employers & employees to complete MANDATED, REQUIRED or HIGHLY RECOMMENDED training in today's industry
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FMCSA News Summary www.kelleronline.com
Transport Topics 11/9/09

DOT to Rewrite HOS Rule After Groups Suspend Suit



The **Department of Transportation** said it will **withdraw** its controversial **driver hours-of-service rule** and write **new regulations** as part of a deal in which a coalition of advocacy groups agreed to **suspend its federal lawsuit challenging the rule.**

Public Citizen and the Teamsters union have challenged the HOS rule, initially proposed by the Bush administration in 2003 as the first major revision of 60-year-old regulations, because they said it **increases driver fatigue.** The groups **twice have won federal court decisions** that sent the rule back to **DOT** and a **third challenge was pending.**

The HOS rule **raised allowable driving hours to 11 from 10** during an overall workday, which it **shortened by an hour to 14 hours.** The rule also allowed drivers to **reset their workweek by taking a 34-hour break.** This rule will **remain in effect** during the **DOT** review.

In an Oct. 26 statement, Transportation Secretary Ray LaHood said, **“Safety is our highest priority** so we believe that **starting over and developing a rule** that can help save lives is the smart thing to do.

DOT said its **Federal Motor Carrier Safety Administration** would send a **new proposed rule to the White House** in nine months and publish a **new final rule** within 21 months.

Anne Ferro, whose **presidential nomination to be FMCSA administrator** the Senate Commerce Committee approved last week, probably will **oversee the writing of the new rule.**

In **2004 and in 2007**, federal appeals courts **struck down all or parts of the rule**, but **FMCSA’S** revisions **didn’t make substantive changes to the regulations**, retaining the **11th hour of driving** and the **34-hour restart.**

In **2004**, a federal appeals court **rejected the rule**, saying **FMCSA** failed to consider the **effect on driver health.** In **2007**, the court again **sent the rule back** to the agency because the court said it **didn’t provide adequate time for public comment.** The **move to re-examine the rule** could **change those provisions**, officials on both sides said.

We definitely hope and expect that that would happen, said Greg Beck, a lawyer for Public Citizen. **There can be no promises as to how the rulemaking process is going to come out**, but I think that this signals, **in light of the two court decisions that have struck down the rule before**, that the **government is willing** to take a **fresh look** at the rule and come to **conclusions based on a fair reading of the evidence.**

American Trucking Associations absolutely will participate in the rulemaking process and will **vigorously defend the safe rule that we currently operate under**, General Counsel Richard Holcomb told Transport Topics.

ATA President Bill Graves said, "Safety in the trucking industry has greatly improved while operating under the **current hours-of-service rules**. Over the past five years, we've seen a **strong decline in truck-involved crashes** on our nation's highways."

We'll be able to **submit a wealth of data** that shows how **safe the rule is**, and at the end of the day, **we'll just have to review what comes out of FMCSA**, Holcomb said.

In a statement, **ATA** said that the **number of truck-involved fatalities has fallen 19%** since the **first contested rule took effect in 2004**.

There are **things that could be improved upon** in the **current hours-of-service regulations** that we'd like changed, but **opening up the issue completely** also runs the **risk of seeing revisions made** that do not affect safety, even though they are **more restrictive**," said James Johnston, president of the Owner-Operator Independent Drivers Association.

Johnston said **a new rule was an opportunity** to bring up **other hours-of-service issues that affect safety**, including **loading and unloading times, split sleeper berth for team operations** and the ability to **interrupt the 14-hour day** for needed rest periods. **Truckers need the flexibility** to get **rest when needed** rather than more **restrictive rules**.

If it's an **honest rulemaking with an honest assessment** of the experience of the motor carrier industry, then it's **not likely that the rule will change**, said one official who asked not to be identified. There's one side of me that says **maybe the rule will change**, but there's another side of me that says, **"On what basis** would the rule change? **It can't be politics**", the official said. What **new data and information** is there on which to **base a rule change**? **That's an obvious and very important question**.

Stephen Keppler, interim executive director for the **Commercial Vehicle Safety Alliance**, said it could be **tough for the agency** to make **major changes** to the rule, given the **time constraints** of the agreement.

"I think it is a **pretty aggressive time schedule**, based upon historical precedent," he said.

Advocacy groups said they **intended to press FMCSA** to make the **new regulation more restrictive**.

Joan Claybrook, chairwoman of **Citizens for Reliable and Safe Highways**, said, "It is time for the **DOT** to **issue a rule** that **advances safety interests** and **not the economic interests** of the industry."

Jackie Gillan, vice president of **Advocates for Highway and Auto Safety**, said that the **agency needs to reform the hours-of-service rule for truck drivers** because **longer operating and working hours** have **serious health and safety consequences** for workers and the public.

New Technologies for Accident Prevention

Through the use of new technology, the mining industry is realizing gains in the areas of employee safety and health. MSHA is promoting the use of new technologies to prevent accidents, illnesses, and injuries to miners.

The projects outlined in this article were facilitated by MSHA based on an analysis of the root causes of accidents and illnesses.

“In many cases, we have partnered with equipment manufacturers to assist us in developing products to enhance safety and health to the miner”.

Many of the projects are currently under development and are not commercially available for use in the mining industry. As these products become commercially available, a notice will be posted on the MSHA web site.

MSHA is dedicated to technologies that have the potential to improve safety and health. “We encourage mine operators to further explore these technologies.”



Blind Area Elimination: Video Cameras on Surface Haulage Equipment

As surface haulage trucks continue to get larger, the corresponding blind areas are also getting larger. Since 1987, there have been 58 fatalities in the mining industry involving haul trucks where restricted visibility was determined to be a contributing factor. In these accidents, the equipment operator did not expect a person or vehicle to be in the immediate area. This is a serious safety concern throughout the mining community. The increased production levels afforded by the ever increasing size of haulage equipment must not be at the expense of miners' safety. The Mine Safety and Health Administration strongly supports the use of video cameras in large haulage vehicles to help solve this problem.

Proximity Detection

Proximity detection is a technology that can be installed on mobile machinery to detect the presence of personnel or machinery within a certain distance of the machine. Proximity detection systems can be programmed to send warning and machine shutdown commands when the programmed areas are encroached. MSHA has assisted the industry in the development of this technology on a variety of mobile machinery, both underground and surface.

Better Lighting for Metal-Nonmetal In-Mine Pre-blast Operations

Accidents in metal-nonmetal mines have occurred that indicate the need for improved lighting while performing pre-blast loading operations. An engineering study was conducted to determine the feasibility of installing supplemental lighting on underground mining lift equipment used in blast hole loading operations. The study identified two types of lighting systems that could be installed on lift equipment to significantly improve the ability of miners to judge the integrity of the mine roof and back.

MEDICAL MARIJUANA

Nationwide, the spread of **ALCOHOL** and/or **CONTROLLED SUBSTANCE ABUSE** has become a major problem for employers in all sectors of industry. This practice not only jeopardizes the user, but all persons who remotely come in contact with that person during a work period.

Drug and alcohol abuse is one of the fastest growing problems in the country. It affects our families, schools, business and industry. Socially, the effects can be devastating.

- Traffic accidents,
- Violent crime,
- Family disputes,
- Medical problems are all society concerns related to abuse.

PRESCRIPTION DRUGS

- Are drugs that have been determined to be safe, effective, and legal **ONLY** when given under the direction of a licensed physician.
- Both the manufacturer and the dispensing of prescription drugs are regulated by laws enforced by the *Food and Drug Administration*, and the individual states.
- If used improperly, people can become physically dependant upon some prescription drugs (i.e. **MEDICAL MARIJUANA**, Morphine, Valium, Hydrocodone etc.)

In November 2000, Colorado voters passed a law that authorizes the use of marijuana to alleviate certain debilitating medical conditions, such as:

- **CANCER**
- **GLAUCOMA**
- **HIV/AIDS POSITIVE**
- **CACHEXIA** the loss of **body mass** that cannot be reversed nutritionally.
- **SEVERE PAIN** - pain that persists longer than the temporal course of natural healing, associated with a particular type of injury or disease process.
- **SEVERE NAUSEA**
- **SEIZURES**, including those that are characteristic of **epilepsy**; or **persistent muscle spasms**, including those that are **characteristic of multiple sclerosis**.

The problem with marijuana is, like **any other drug**, it can become the focal point of a person's life.

All of a sudden **USERS** may want to get high before or during anything and everything. For the person who uses, **life may begin to revolve around smoking marijuana**.

Like alcohol, and any other **DRUG**, legal or illegal, **the use may get out of control and cause serious problems**. Some people can become "addicted" to marijuana and try to rationalize or justify using it. Like any other drug, **marijuana can become the focal point of your life**.

While Amendment 20 makes the drug available to patients who suffer from those **SERIOUS debilitating diseases and illnesses listed above**, the fact still remains that **employees, who are under the influence of marijuana, pose a serious risk to themselves, members of the public and fellow employees**.

The Department of Transportation's Drug and Alcohol Testing Regulation – 49 CFR Part 40, at 40.151(e) – **does not authorize** “medical marijuana” under a state law **to be a valid medical explanation** for a transportation employee's positive drug test result. In response to this regulation, the **same rule shall apply to employees who perform “Safety Sensitive Functions” while working.**

EMPLOYEES/DRIVERS shall not report for duty or remain on duty requiring the performance of **SAFETY-SENSITIVE FUNCTIONS** when the **EMPLOYEE/DRIVER** uses any type of **CONTROLLED SUBSTANCES**.

Contrary to many young people's beliefs, **Marijuana is a harmful - habit forming drug, especially since the potency of the marijuana now available has increased more than 273% over the last decade.**

- Preliminary studies have shown chronic lung disease in some marijuana users.
- There are **more known cancer causing agents in marijuana smoke** than in cigarette smoke.
 - In fact, because marijuana smokers try to hold the smoke in their lungs as long as possible, one marijuana cigarette can be as damaging to the lungs as four tobacco cigarettes.
- New studies using animals also show that marijuana **interferes with the body's immune response to various infections and diseases.**
- The finding may have special implications for those infected with the **Acquired Immune Deficiency Syndrome (AIDS) virus**, Human Immune Deficiency Virus (HIV).
- Although **not everyone who is infected with the virus** gets the disease, those **who use immune-weakening drugs such as marijuana may increase their risk for developing full blown AIDS.**

Not only is the **use of Marijuana illegal** outside the strict confines allowed for prescription use of the drug, it is **most important to remember that the use of any controlled substance has the predictable and proven likelihood to lead to the use and addiction of other “controlled substances and illegal” drugs.**

It has been proven in many studies that the **use of Marijuana often leads to the use of other harmful and addictive substances, including:**

- **OPIATES** and various forms of the drug.
- **AMPHETAMINES** and various forms of the drug.
- **COCAINE** and various forms of the drug
- **PHENCYCLIDINE (PCP)**
- **MARIJUANA** and any variations of the drug.

Long-term marijuana abuse can lead to addiction; that is, compulsive drug seeking and abuse despite its known harmful effects upon social functioning.

Long-term marijuana abusers trying to quit report irritability, sleeplessness, decreased appetite, **anxiety**, and drug craving, all of which make it difficult to quit.

Please note that **marijuana, including medical marijuana, remains a restricted substance listed in Schedule I of the Controlled Substances Act.**

Employees/Applicants/Drivers who test **POSITIVE** for **Non-DOT Controlled Substance Test** from the use of **medical marijuana** shall be treated the same as the **Employee/Applicant/Driver** who tests **POSITIVE** for **DOT Test**.

We want to assure the traveling public that our transportation system is the safest it can possibly be.