



Wishing you a Safe and Happy 2010!!!!

#### OSHA/CONSTRUCTION NEWS SUMMARY

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[Read more....](#)

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## Most Frequently Cited Standards for 2009

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### MONTHLY SAFETY TIP NEWS SUMMARY

## HOLIDAY CELEBRATIONS OFTEN INCLUDE ALCOHOL

The holiday season is always full of buzz. From family gatherings to football and office parties, there are plenty of times and places to celebrate. Many of these celebrations might include alcohol. [Read more....](#)

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OSHA / CONSTRUCTION

## US DEPARTMENT OF LABOR UNVEILS NEW 'OPEN GOVERNMENT' EFFORTS

The **U.S. Department of Labor** announced a **broad array of efforts** designed to **improve the public's accessibility** to its agencies and ensure the department can **function more effectively**.

"**True progress** is not something that happens to people. It happens **because of them**. And, it all **begins with information** that can be **shared in a timely and effective manner**," said U.S. Secretary of Labor Hilda L. Solis. "**People deserve to know what their government is doing on their behalf**, and what they can **do to participate actively** in that **work**. I am **proud of the steps** we are taking to **make that possible**, and I look forward to **broadening our efforts further**."

Previously, only the Labor Department's **Mine Safety and Health Administration MSHA** posted **worker fatality data** on its Web site. Now, the Labor Department's **Occupational Safety and Health Administration OSHA** is also **systematically publishing employer-specific information** about **occupational fatalities** online and making these data **available for easy download**. Comprehensive, weekly reports on this topic are now available at [http://www.osha.gov/dep/fatcat/dep\\_fatcat.html](http://www.osha.gov/dep/fatcat/dep_fatcat.html).

**Employers with reported fatalities** will have an **incentive** to take steps to **improve safety** and **prevent future accidents**. In addition, **responsible employers** will be able to use the database to **identify dangerous conditions** and **take precautions**.

**Other agencies** at the department are also making **additional information available** to the public - **Bureau of Labor Statistics** at <http://www.data.gov>. Meanwhile, the **Employment and Training Administration** recently launched a **Web-based competition**.....more information is available at <http://www.dol.gov/challenge>.

The **department's commitment to enhance participation** also extends to the **regulatory arena**. On Monday, Dec. 7, the department rolled out its **regulatory agenda entirely online** <http://www.dol.gov/regulations>.

"As a legislator, I always **felt it was essential** for people to **take part in the processes** of their **government**. As a regulator, I **feel exactly the same way**," added Solis.

The **department has also launched a weekly e-newsletter**, which **offers readers the latest details** in everything from the **department's enforcement and compliance assistance** to job openings at its various agencies.

In an **attempt to engage the public online**, the **DOL** is also using **social media tools** - **Facebook and Twitter** - to help **link knowledge communities** together and speed up the **sharing of valuable information** among the **department, state workforce agencies, a variety of stakeholders** and, **most importantly, the American public**.

# OSHA CLARIFIES USE OF ADHESIVE STICKERS, PAINTS ON PROTECTIVE HELMETS



In response to a question concerning the use of **adhesive stickers or paints on protective helmets**, **OSHA** says they **must be used in accordance with the manufacturer's instructions**, unless the employer can **demonstrate** that the **altered protective helmet** is equally as **effective and protective** as those meeting the requirements of the **American National Standards Institute (ANSI) Z89.1**.

According to **OSHA**, **protective helmet manufacturers** usually provide **very specific instructions** regarding paints, stickers, or decals that will **not negatively affect** the performance of a protective helmet, so using these would be **considered acceptable** if the manufacturer authorizes the alteration.

**OSHA** went on to say that it would also **consider paints, stickers, or decals acceptable** if the employer can **demonstrate** that the **reliability of the helmet is not affected** by the paint or the adhesive on the stickers; and the paint or placement of stickers **would not reduce the ability to identify defects** (i.e., use of see-through stickers) or **other conditions** that would **indicate a reduced reliability**.

In the **Letter of Interpretation** dated [10/27/09, Painting or placement of adhesive stickers on protective helmet shell](#), **OSHA** says that **paints and stickers** may **eliminate electrical resistance** and, depending on the location and quantity, **conceal defects, cracks, penetration, and**

**any damage** that would be **otherwise readily identifiable** during the **employee's inspection to ensure reliability**. Another concern is that **paints, thinners, and solvents** can also **attack or damage** the shell of a helmet and **reduce protection**.

## Employer Guidance: Reducing All Workers' Exposures to the 2009 H1N1 Flu

The severity of the 2009-2010 flu season cannot be precisely predicted and may change during the course of the fall and winter.

This webpage

<http://www.osha.gov/h1n1/index.html>

provides current information about the 2009 H1N1 flu and resources that detail the steps that managers, employers and workers need to take now.

As the flu season develops and more information becomes available, this workplace guidance will be updated. Employers and workers need to check frequently for the latest guidance.

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[www.mjssafety.com](http://www.mjssafety.com)  
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### SOURCES FOR THIS ISSUE INCLUDE

[www.MSHA.gov](http://www.MSHA.gov)

[www.OSHA.com](http://www.OSHA.com)

FMCSA News Summary

[www.kelleronline.com](http://www.kelleronline.com)

[www.dailyitem.com](http://www.dailyitem.com)

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# FMCSA Toughens Safety Requirements for New Start-Up Commercial Truck and Bus Companies

**FMCSA's** New Entrant Safety Assurance Process final rule, with a compliance date of December 16, 2009, **significantly raises the bar** for all newly registered commercial truck and bus operators. Not only does it **increase the level of requirements** placed upon the carrier needed to satisfy **New Entrant safety audits**, the rule mandates that **safety deficiencies are corrected** before a start-up motor carrier company is granted permanent **USDOT** operating authority.

The final rule, which became effective February 17, 2009, **identifies 16 federal regulations** deemed **essential elements of basic safety management controls** so important that, if failed singularly or collectively, will **result in an automatic failure of the audit**.

These **"essential elements"** largely fall within the areas of: **controlled substances and alcohol testing; hours-of-service compliance; driver/CDL qualifications; vehicle maintenance/safety condition; and carrier financial responsibility.**

Simply stated, if a **New Entrant carrier** fails the audit, it may trigger the **revocation of USDOT operating authority** unless or until the carrier takes the **necessary corrective action**.

## KEY ELEMENTS OF THE RULE

**Chameleon carriers** - existing carriers that try to **evade enforcement action** by attempting to register as a **"New Entrant"** by obtaining a new **USDOT** number - will be an **important focus** in the **implementation** of the new rule. The **penalty** for providing **false or misleading information** during the federal application process includes **possible revocation of operating privileges** and/or a **monetary fine**. **FMCSA** has developed **new computer programs** that compare **existing census data** and other records to **flag suspect applicants** for further scrutiny and verification.

The rule also specifies that within the **New Entrant's** initial **18-month mandatory safety**

**monitoring period**, should certain **violations be discovered** during **random roadside driver/vehicle inspections**, an **expedited safety audit** may be **triggered**. If more **serious safety violations** are uncovered, the carrier may be subjected to a **comprehensive Compliance Review**, followed by appropriate **enforcement action** if necessary. The carrier may be required to **submit a written corrective action plan** explaining in detail how they will **achieve compliance** with federal safety regulations and **improve its overall safety performance**.

Under the **new rule**, the carrier's **compliance** with the federal **Americans with Disabilities Act (ADA)** requirements will be examined during the **New Entrant safety audit**. Although the **responses** to these questions **will not** be a factor in determining the outcome of the **safety performance audit**, **FMCSA** will continue referring **ADA violations** to the **U.S. Department of Justice** for further investigation. Likewise, **violations** of commercial regulations by **household goods (HHG) movers** will be forwarded to **FMCSA's Commercial Enforcement Division** for follow-up by federal and state **HHG Strike Force** teams.

**FMCSA**, working in **close alliance** with its **state law enforcement partners**, anticipates that **approximately 40,000 New Entrant safety audits** will be conducted each year.

## EDUCATIONAL AND TECHNICAL ASSISTANCE AVAILABLE

**Prior to** the December 16, 2009 **compliance date** of the **New Entrant rule**, **FMCSA** will continue as it traditionally has done in the past to place a **great deal of emphasis** on **educating** start-up truck and bus companies to the **full scope** of their **safety obligations**. **FMCSA** will maintain a strong **outreach and public information** effort that includes the **addition of new resources** and a newly redesigned and enhanced **Educational and Technical Assistance (ETA) package** now available at <http://www.fmcsa.dot.gov/>.

# MSHA SLAPS MORE THAN \$300,000 IN FINES ON LIMESTONE MINE

(Mifflinburg, Pennsylvania)...Sitting in the small, dusty office of his business, David Iddings pulled out certificates praising the 25-year safety record he has compiled at his Union County limestone mine.

“That means absolutely nothing to me,” Iddings said. “That means I must be doing a hell of a good job, and they aren’t appreciating it.”

“They” is the federal Mining Safety and Health Administration **MSHA**, which since July has slapped the 69-year-old Iddings with **85 citations** calling for more than **\$300,000** in fines.

And more fines are pending, fines that could total as much as **\$1.4 million**, according to Iddings’ Maryland attorney Adele Abrams, and carry possible civil prosecution that could potentially shut down his mine.

Abrams, a certified mine safety professional, said Iddings is the victim of overzealous enforcement.

“I cannot say why Mr. Iddings is being targeted here,” Abrams said. “This is part of a general pattern I’m seeing where there is something of a numbers game being played, especially with the newer inspectors: ‘Can you top this?’”

Iddings’ nightmare started in July during a routine inspection. A **MSHA** inspector wrote **32 citations** for violations, about half of those were for electrical problems. Some were classified as serious.

## NO HELP - MORE FINES

Iddings then asked for assistance from **MSHA’s** technical support directorate for help coming into compliance.

What he got, Abrams said, was a return visit from **MSHA**, this time with more inspectors who levied more citations, bringing the total to **85 citations** and counting.

Among the citations were several for electrical problems at the mine, while others involved Iddings’ vehicles. Another was for some broken window panes.

A spokesperson from **MSHA** issued this statement: *“The Federal Mine Safety and Health Act of 1977 (Mine Act) requires that, ‘if upon inspection or investigation, the secretary or authorized representative believes that an operator of a coal or other mine subject to this act has violated this act, or any mandatory health or safety standard, rule, order or regulation promulgated pursuant to this act, he shall issue a citation to the operator.’ The inspectors believed there were violations at the mine, so the Mine Act requires that the operator be cited.”*

The dilemma Iddings finds himself in now is a first for the Mifflinburg native, who inherited the limestone mine from his father in 1979.

Over the past 25 years, his mine has been recognized twice for its safety record, most recently by the **Joseph A. Holmes Safety Association**, and earned a certificate from the **Sentinels of Safety** program for **13,702 accident-free hours** in 2008. **MSHA** supports both the Sentinels and the Holmes safety awards programs, and Iddings has the certificates to support the honors he’s received.

The mine received only four minor citations for electrical problems in the past two years.

“This time they came in with a vengeance, wrote an extraordinary number of citations on conditions other inspectors had considered to be compliant,” Abrams said. “Only months earlier, Mr. Iddings was not considered to be out of compliance, and there was no change in conditions.”

#### A NATIONAL TREND?

Abrams, who has clients from Maine to Alaska, said Iddings has become caught up in a trend she’s seeing nationwide. “I’m seeing this all over the country, citations for mold in a refrigerator, broken picture frames, wires from a computer,” Abrams said. “There’s really very little, if any, correlation to the majority of what is being cited and what is causing injuries.”

According to Abrams, **MSHA** is playing a numbers game, levying high numbers of citations that never actually materialize.

According to **MSHA** data, for total cases in 2008, \$19.6 million in penalties was proposed, but only \$11.7 million was affirmed, a 40 percent reduction. For the first six months 2009, \$21.8 million was proposed, and \$11.9 million was affirmed, a 45 percent reduction.

Abrams said that it is significant that more fines were proposed in the first six months of 2009 than in all of 2008.

#### PLAYING GAMES

“This shows mine inspectors are playing a PR game,” Abrams said. “They’ve been around for 30 years. Shouldn’t the number of citations be going down instead of up?”

According to additional **MSHA** data, fatalities in metal/nonmetal mines like Iddings’ have dropped consistently, from 33 in 2007, to 23 in 2008, to 16 in 2009.

All of the problems Iddings was cited for this summer have been abated and closed by **MSHA**, he said, but remain under contest.

“I’m definitely fighting it,” Iddings said.



## Most Frequently Cited Standards for 2009

A list of the Most Frequently Cited Standards by Mine Type is available at <http://www.msha.gov/STATS/Top20Viols/top20home.asp>

For more information: [See MSHA'S Program Policy Manual](#)



**Stop Look  
Analyze Manage  
Risks**

## HOLIDAY CELEBRATIONS OFTEN INCLUDE ALCOHOL

The **holiday season is always full of buzz**. From family **gatherings to football and office parties**, there are plenty of times and places to celebrate. **Many of these celebrations might include alcohol.**

Unfortunately, the stresses **of the holiday rush and the spirit of celebration combined with the many social gatherings can heighten the risk of unhealthy alcohol consumption** for some.

It's important to remember during this holiday season that if you **choose to drink alcohol as part of your celebrations, you must drink responsibly**. Stop for a second and think about your family, friends, your job and other people you may encounter.

**National Highway Traffic Safety Administration research shows that between 2002 and 2006, nearly 40 percent of all fatalities in motor vehicle crashes during the Christmas and New Year holiday periods were alcohol related.** In these accidents, **at least one of the drivers was alcohol-impaired**, as compared to about 28 percent of all fatalities during the rest of December.

When you are on the road during the Holidays, it is more common to encounter impaired drivers. **Be aware of other drivers who may have made the choice to drive after they have had too much to drink.** When at these Holiday parties, think about **doing yourself, family, friends and all the other people who could be on the road a favor and:**

- **Hand over your keys**
- **Take the keys from someone who has been drinking**
- **Call a cab**
- **Have a designated driver to keep everyone, including yourself, safe**

It's all too easy to **"overindulge" during the holidays** and at celebratory events. But **drinking to the point of intoxication (alcohol abuse) can ruin the celebration**, since it carries with it the **risk of injury, dependence and even death.**

### **ABUSE INCLUDES HEAVY DRINKING, BINGE DRINKING OR BOTH**

- **Binge drinking is defined as drinking five or more drinks during a single occasion for men or four or more drinks during a single occasion for women.**
- **Heavy drinking is defined as binge drinking once a week or more.** However, if you are a woman who has more than one drink or a man who has more than two drinks daily on a regular basis, **you may also be considered a heavy drinker.**

**Understanding the standard serving size for drinks is an easy way to monitor your alcohol consumption to reduce potential risks.** In general, it's **not the type of alcoholic drink, but rather the amount of alcohol consumed over a defined period that makes a difference.** **BUT REMEMBER, THE BEST WAY TO AVOID AN ALCOHOL RELATED ACCIDENT IS TO NEVER DRIVE IF YOU ARE DRINKING AT ALL.**

In the United States, a standard drink is one that contains 0.6 ounces (13.7 grams or 1.2 tablespoons) of pure alcohol. Generally, this amount of pure alcohol is found in:

- 12 ounces of regular beer or wine cooler
- 8 ounces of malt liquor
- 5 ounces of wine
- 1.5 ounces of 80-proof distilled spirits or liquor (e.g., gin, rum, vodka, whiskey).

**If you choose to use alcohol as part your celebrations this holiday season, please don't drink and drive.** It's also a good idea **to limit your drinks to no more than one per hour and three at most in an evening.** Getting sick or injured (or worse!) as a result of overindulgence is definitely not fun. Remember, **“an ounce of prevention is worth a pound of cure.”**

**CONSIDER THE FOLLOWING BEFORE YOU DECIDE TO DRINK:**

You could loose your job if you come to work still intoxicated.

If you hold a CDL, the choice to drink and drive **CAN COST YOU YOUR JOB.**

You could **INJURE YOURSELF OR SOMEBODY'S LOVED ONE! CAN YOU LIVE WITH THIS?**

The holidays are a great time to celebrate, but drinking does not have to be a part of your celebration. It's **YOUR CHOICE** and **NO ONE IS RESPONSIBLE FOR YOUR DECISIONS BUT YOU!**

The *Department of Defense* has developed a *Web site and campaign highlighting the negative effects and risks of binge drinking* at <http://www.thatguy.com/>. *It is a great place to find more info about alcohol.*

**Best wishes for a healthy, happy and safe holiday season!**