Good Morning. I would like to take this opportunity to thank the faculty for inviting me here to speak with you all today.

Talk with participants about the union’s product is worker representation. Unions give workers a collective voice in dealing with various issues that affect them, including worker safety and health. I will speak primarily from a Teamster perspective, however, most labor unions in the US provide a similar support to their respective memberships.
Safety and Health Agencies

Occupational Safety and Health Administration
Federal Motor Carrier Safety Administration
OSHA is part of the United States Department of Labor. The administrator for OSHA is the Assistant Secretary of Labor for Occupational Safety and Health. OSHA's administrator answers to the Secretary of Labor, who is a member of the cabinet of the President of the United States.

**Occupational Safety and Health Administration**

- **OSHA's Mission**
  - To assure safe and healthful working conditions for working men and women by setting and enforcing standards and by providing training, outreach, education and assistance.

- **Duties**
  - Each employer shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees;
  - shall comply with occupational safety and health standards promulgated under this Act.
  - Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Act which are applicable to his own actions and conduct.
### OSHA FAQ Page

**OSHA Frequently Asked Questions**

#### Featured Topics

- Recent OSHA Regulations
- Training and Certifications
- Employer Assistance
- Information for Workers

#### Additional Topics

- Emergency Preparedness
- Personal Protective Equipment
- Workplace Violence
- Hazardous Conditions
- Chemicals
- Personal Protective Equipment
- Training and Certification
- Health and Safety
- Workplace Violence

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**Information for Workers**

**If my workplace is unsafe, what can I do?**

If you believe working conditions are unsafe or unhealthful, we recommend that you bring the conditions to your employer’s attention. At any time, a worker may file a complaint with OSHA to report a hazardous working condition and request an inspection. If the condition clearly presents a risk of death or serious physical harm and there is not enough time for OSHA to inspect, the worker may have a legal right to refuse to work.

You may also contact your local OSHA office for assistance.

**How can I get an OSHA inspector to my workplace to evaluate unsafe practices?**

The Occupational Safety and Health Act of 1970 gave employees and their representatives the right to file a complaint and request an OSHA inspection of their workplace if they believe there is a serious hazard or if their employer is not following OSHA standards. Workers do not have to know whether a specific OSHA standard has been violated or follow the complaint.

**Who can file a complaint and what are the steps?**

Workers or their representatives may file a complaint either by phone or by mail. Mail a copy of the complaint to the nearest OSHA office. A complaint must be filed within 60 calendar days from when the worker knows or should have known of the violation.

**Characteristics of a hazardous condition?**

If the condition clearly presents a risk of death or serious physical harm and there is not enough time for OSHA to inspect the workplace, the worker may have a legal right to refuse to work.

**How can I file an OSHA complaint?**

You can file a complaint through the OSHA's [complaint process](https://www.osha.gov/). You will need to provide your name and contact information.

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**If you can’t find the answer to your question on this page, check out [OSHA’s FAQ](https://www.osha.gov/)**
Federal Motor Carrier Safety Administration

• The FMCSA was established within the Department of Transportation on January 1, 2000, pursuant to the Motor Carrier Safety Improvement Act of 1999.

• Primary mission
  – Prevent commercial motor vehicle-related fatalities and injuries. The Administration seeks to accomplish its mission by:
    • Ensuring safety in motor carrier operations through strong enforcement of safety regulations
    • Targeting high-risk carriers and commercial motor vehicle drivers
    • Improving safety information systems and commercial motor vehicle technologies
    • Strengthening commercial motor vehicle equipment and operating standards
    • Increasing safety awareness
• **Activities**
  - Commercial Drivers’ Licenses
    - The Administration develops standards to test and license commercial motor vehicle drivers.
  - Data and Analysis
    - The Administration collects and disseminates data on motor carrier safety and directs resources to improve motor carrier safety.
  - Regulatory Compliance and Enforcement
    - The Administration operates a program to improve safety performance and remove high-risk carriers from the Nation’s highways.
  - Research and Technology
    - The Administration coordinates research and development to improve the safety of motor carrier operations and commercial motor vehicles and drivers.
  - Safety Assistance
    - The Administration provides States with financial assistance for roadside inspections and other commercial motor vehicle safety programs. It promotes motor vehicle and motor carrier safety.
  - Other Activities
    - Supports the development of unified motor carrier safety requirements and procedures throughout North America.
    - Participates in international technical organizations and committees to help share the best practices in motor carrier safety throughout North America and the rest of the world.
    - Enforces regulations ensuring safe transportation of hazardous materials.
Thank you for the opportunity to meet with you to discuss changes to the transportation safety regulations that affect our driver membership. During today’s presentation, I will cover several subjects that should be of interest to you. Feel free to ask questions as we have plenty of time to cover this information.
I will discuss with you, the topics as detailed on this slide. There are significant regulatory changes that have been or will be soon implemented in the trucking and bus industries as well as some regulations that are newly in effect from the Department of Labor Occupational Safety and Health administration applicable to general industry employers and employees. These revisions and new regulations will affect both employees in general industry and commercial drivers in all sectors of the truck and bus industries.
Injury and Illness Reporting Anti Retaliation Provision

- OSHA Final Rule: “Improve Tracking of Workplace Injuries and Illnesses” contains three new employee involvement provisions that address employer conduct that could discourage employees from reporting work-related injuries or illnesses.
  - clarifies the existing requirement that an employer’s procedure for reporting work-related injuries and illnesses must not deter or discourage reasonable employees from reporting work-related injuries or illnesses (1904.35(b)(1)(i));
  - requires employers to inform employees of their right to report work-related injuries and illnesses free from retaliation ((b)(1)(ii)-(iii)); and
  - incorporates into the recordkeeping standard a prohibition on retaliating against employees for reporting work-related injuries or illnesses ((b)(1)(iv)).
- All aspects of this rule including employer electronic reporting of injuries became effective **January 2017**.

The final rule clarifies the existing implicit requirement that an employer’s procedure for reporting work-related injuries and illnesses must be reasonable and therefore must not deter or discourage reasonable employees from reporting work-related injuries or illnesses (1904.35(b)(1)(i)); requires employers to inform employees of their right to report work-related injuries and illnesses free from retaliation ((b)(1)(ii)-(iii)); and incorporates into Part 1904 the existing statutory prohibition on retaliating against employees for reporting work-related injuries or illnesses ((b)(1)(iv)).

Electronic reporting of injury and illness data will help OSHA streamline the data collection process and also helps the union in our ability to process and analyze injury and illness data we request from the employer.
Walking Working Surfaces

- Final Rule to Update General Industry Walking-Working Surfaces and Fall Protection Standards / Effective Jan. 17, 2017

- The rule updates the general industry standards related to hazards from slips, trips and falls, and falls from heights. Among other features, it provides greater flexibility in choosing a fall-protection system, brings general industry scaffold requirements in line with those for construction, adds protections for fixed ladders taller than 24 feet, requires regular inspection of walking-working surfaces, and requires training for employees who use personal fall protection equipment.

The final rule applies to all general industry workplaces and covers all walking-working surfaces, which include horizontal and vertical surfaces such as floors, stairs, roofs, ladders, ramps, scaffolds and elevated walkways. The final rule also has provisions affecting fall protection systems.

Inspection of walking-working surfaces (§1910.22(d)). The final rule requires that employers inspect walking-working surfaces regularly and as needed and correct, repair, or guard against hazardous conditions.
Heat Stress

WATER, REST, SHADE: OSHA's Campaign to Keep Workers Safe in the Heat

TOP TIPS:

- Drink plenty of water before, during, and after work. Stay hydrated to prevent dehydration.
- Wear light-colored, loose-fitting, moisture-wicking clothing to reduce heat stress.
- Avoid strenuous activity from 10 a.m. to 4 p.m. to minimize heat exposure.
- Take frequent breaks in cooler areas to allow your body to cool down.
- Be alert for signs of heat-related illness, such as muscle cramps, fatigue, and dizziness.
- If possible, arrange work schedules to avoid the hottest times of the day.
- Use fans, air conditioning, or other cooling systems to create a comfortable work environment.

Employee Responsibility:

In the workplace, employers are responsible for providing employees with a safe and healthy work environment. This includes implementing measures to prevent heat-related illnesses. Employers should:

- Provide workers with training on heat stress prevention measures.
- Identify the need for air conditioning or other cooling systems.
- Provide rest areas with shade or air conditioning.
- Schedule work so that employees are not exposed to the heat for long periods.
- Consider adjusting work schedules or offering heat stress paid leave.

OSHA's Heat Stress Prevention Program:

- The Heat Stress Prevention Program is designed to help employers protect their employees from the risks of heat stress.
- The program includes key elements such as heat stress assessments, risk control measures, and employee training.
- The Heat Stress Prevention Program is accessible at OSHA's website.

Resources:

- OSHA heat stress resources: https://www.osha.gov/SLTC/heatstress/
- National Institute for Occupational Safety and Health (NIOSH) heat stress guidelines: https://www.cdc.gov/niosh/topics/heatstress.html

For more information on heat stress prevention, visit OSHA's website at https://www.osha.gov.
Heat Safety Tool

The OSHA NIOSH Heat Safety Tool is a resource for workers and employers to assess heat-related risks in the workplace and develop strategies to prevent heat-related illnesses and fatalities. The tool provides information on heat stress, including:

- Heat stress assessment
- Heat exposure alert and warning system
- Heat stress risk management
- Heat-related illness prevention
- Heat stress control measures
- Heat stress prevention strategies

The tool is available in English and Spanish and can be downloaded or accessed online. It is designed to be user-friendly and easy to use, providing important information on heat stress and how to prevent it.

For more information, visit the OSHA NIOSH Heat Safety Tool website.
The clearinghouse will apply to all CDL drivers who operate commercial motor vehicles subject to the CDL requirements on public roads in the U.S. who are performing safety-sensitive functions and are subject to DOT drug and alcohol testing regulations (§382.103). This includes all full-time, part-time, intermittent, backup and international drivers.

Drug and Alcohol Clearinghouse will contain information from the following sources:
1. Random testing
2. Reasonable cause testing
3. Return to duty testing
4. Unannounced Follow-up Testing
5. Pre-employment
6. Post Accident
The proposed rule would apply to persons and employers of such persons who operate CMVs in commerce in the United States and are subject to the CDL requirements in 49 CFR part 383 or the equivalent CDL requirements for Canadian and Mexican drivers.

- The proposed rule simply states that foreign carriers and drivers who are employed by such carriers must comply with the proposed rule or its equivalent. The union requested that the agency clarify how it intends to enforce this provision.

- Laboratories performing DOT drug testing for FMCSA-regulated employers will be required to file annual summary reports identifying the motor carrier employers for whom they performed testing services. The FMCSA will use the data provided by the laboratories to identify employers of CDL drivers that do not have an active drug and alcohol testing program.

- The union strongly supports this provision of the regulation as it will provide the agency important information to assist it in identifying and targeting for enforcement, motor carriers that may not be in compliance with the drug and alcohol testing regulations.

- FMCSA proposes to add a new §382.123 that would require employers to provide specific information on the Alcohol Testing Form (ATF) and Federal Drug Testing Custody and Control Form (CCF) that identifies drivers by use of their CDL number and State of issuance.

- The union supports this provision as it will help to protect drivers from identity theft. It has been widely reported by the media, that there have been significant security breaches of both databases used by private businesses and governmental agencies and the theft of personal identification information such as social security numbers resulted in identity theft for some individuals whose information was obtained.
Drug and Alcohol Clearinghouse

• The Final Rule will also require:
  – FMCSA-regulated truck and bus companies, Medical Review Officers, Substance Abuse Professionals, and private, third party USDOT drug and alcohol testing laboratories to record information about a driver who:
    • Fails a drug and/or alcohol test;
    • Refuses to submit to a drug and/or alcohol test; and
    • Successfully completes a substance abuse program and is legally qualified to return to duty.

• You fail a drug or alcohol test by testing positive to a drug test, or registering a 0.04 or greater alcohol content. Either of these results requires you to be immediately removed from performing safety-sensitive functions (i.e., driving CMVs) until successful completion of the return-to-duty process with a DOT-qualified substance abuse professional.
  – Your refusal to submit to a drug or alcohol test is generally equivalent to testing positive to a drug or alcohol test. You must immediately be removed from performing safety-sensitive functions (i.e., driving CMVs) until successful completion of the return-to-duty process with a DOT-qualified substance abuse professional. The DOT regulations outline refusal test for drugs and alcohol. §40.191 What is a refusal to take a DOT drug test, and what are the consequences?

(a) As an employee, you have refused to take a drug test if you:

(1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee (including an owner-operator) to appear for a test when called by a C/TPA (see §40.63(c));

(2) Fail to remain at the testing site until the testing process is complete; Provided, That an employee who leaves the testing site before the testing process commences (see §40.63(c)) for a pre-employment test is not deemed to have refused to test;

(3) Fail to provide a urine specimen for any drug test required by this part or DOT agency regulations; Provided, That an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences (see §40.63(c)) for a pre-employment test is not deemed to have refused to test;

(4) In the case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of your provision of a specimen (see §§40.67(i) and 40.69(g));

(5) Fail to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure (see §40.197(d));

(6) Fail or decline to take an additional drug test the employer or collector has directed you to take (see, for instance, §40.197(d));

(7) Fail to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under §40.193(d). In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment. If there was no contingent offer of employment, the MRO will cancel the test; or

(8) Fail to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector).

(9) For an observed collection, fail to follow the observer’s instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.

(10) Possess or wear a prosthetic or other device that could be used to interfere with the collection process.

(11) Admit to the collector or MRO that you adulterated or substituted the specimen.

(b) As an employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

• FMCSA proposes to add a new section that would provide that an employer must not allow a driver to operate a CMV if the Clearinghouse has a record that shows that a driver has not successfully completed the return-to-duty process required by 49 CFR 40.305.
  – We support the proposed requirement as it codifies for all motor carriers a provision that our unionized carriers implemented many years ago. However, because this provision ultimately affects a driver’s ability to resume his/her driving tasks after a positive test result, it is vitally important that the data collected is accurate and current, and that there be an expedient data transmission process in place.
Clearinghouse - Reporting

- Employers, consortia/third party administrators (C/TPAs), and/or medical review officers (MROs) will be required to report drug and alcohol testing program violations to the Clearinghouse.
- SAPs will be required to report information about drivers undergoing the mandatory return-to-duty drug and/or alcohol rehabilitation process.
- Each time information is added to, modified or removed from the Clearinghouse, FMCSA will notify the affected driver.
- To receive electronic notification, drivers will have to register with the Clearinghouse.

How will drivers be notified when information about them is added to the Clearinghouse?
The Clearinghouse will notify a driver by mail using the address on his or her CDL anytime information about the driver is added, revised, or removed. A driver may elect to receive electronic notifications when registering in the Clearinghouse.
Clearinghouse - Querying

- Employers will be required to query the Clearinghouse for covered drivers for two purposes:
  - Pre-employment screening
  - Annual verification
- Pre-employment
  - Purpose: to ensure that the prospective employee is eligible to drive.
  - Query-type: full queries would be conducted which means that FMCSA must verify specific driver consent prior to releasing information.
- Annual Queries
  - Purpose: to ensure that a driver did not violate the drug and alcohol program with another employer.
  - Query-type: limited queries to determine whether any data exists for a driver would be allowed and will only require general driver consent, subject to FMCSA audit.

A limited query only identifies whether information about the driver exists in the Clearinghouse and will not result in release of any driver information.

If the limited query shows a driver record in the Clearinghouse, the employer would be required to run a full query, triggering FMCSA verification of specific driver consent before releasing information.

Drivers refusing consent will not be able to perform safety sensitive functions such as driving a commercial motor vehicle.

Information regarding the driver will be accessible to employers for a minimum of 5 years. If the driver does not satisfy the mandatory return to duty requirements, the information will remain accessible to employers indefinitely.
Clearinghouse – Querying (Access)

• State driver licensing agencies will also be required to query the Clearinghouse when a State-licensed driver obtains, renews, upgrades, or transfers his or her CDL.
• The National Transportation Safety Board (NTSB) will be able to access Clearinghouse information for drivers involved in a crash under investigation by the NTSB.
Clearinghouse - Fees

• There will be no fees for a driver to access their own record in the Clearinghouse.
• Motor Carriers will pay a fee to query the Clearinghouse. The fee amount has not yet been determined, but will include options for subscription and batch use.
FMCSA takes the protection of personal information very seriously. The Clearinghouse will meet Federal Security Standards and FMCSA will verify the effectiveness of the security protections on a regular basis. Only full queries, which require verified driver consent, will result in the release of records to prospective or current employers (§ 382.703).

How long will driver violation records be available in the Clearinghouse?

Driver violation records will be available in the Clearinghouse to authorized employers for 5 years from the date of the violation determination, or until the driver completes the return-to-duty process, whichever is later. There are limited exceptions which could result in earlier removal of driver violations from the Clearinghouse, as described in 382.719(c).
Frequently Asked Questions

• May employers report the results of non-DOT drug or alcohol tests to the Clearinghouse?
  – No. Only results of DOT drug or alcohol tests or refusals may be reported to the Clearinghouse. While employers may conduct drug and alcohol testing that is outside the scope of the DOT testing requirements, positive test results or refusals for such non-DOT testing may not be reported to the Clearinghouse.
Frequently Asked Questions

• Will a driver’s follow-up testing plan, implemented as part of the return-to-duty process, be available in the Clearinghouse?
  – Follow-up testing plans will not be included in a driver’s Clearinghouse record. When a prospective employee has not completed a follow-up testing plan prescribed by the Substance Abuse Professional, or SAP, the subsequent new employers must continue to obtain the follow-up testing plan from the previous employer, as required in § 382.413, and complete the follow-up testing.

• What are a medical review officer’s (MRO) responsibilities for reporting information to the Clearinghouse?
  – Within two business days of making a determination or verification of a DOT-approved drug test, a MRO must report the following driver information to the Clearinghouse:
    – Verified positive drug test results; or
    – Refusal-to-test determinations based on the employee’s inability to provide a sufficient specimen for testing, or the adulteration or substitution of a specimen.
Frequently Asked Questions

• What information is a substance abuse professional (SAP) required to report to the Clearinghouse?
  – For each driver who has completed the return-to-duty process in accordance with 49 CFR part 40, the SAP must report the following information:
    – SAP’s contact information;
    – Driver’s name, date of birth, CDL number and State of issuance;
    – Date of initial substance abuse professional assessment; and
    – Date the SAP determined the driver demonstrated successful compliance with return-to-duty requirement and was eligible for return-to-duty testing.
Revisions to the DOT Drug Testing Regulation

Expanding the Testing Panel – Opioids
Fatal Flaws in Testing
Drug Testing Panel

- Effective January 1, 2018, the drug testing panel will be:
  - Marijuana
  - Cocaine
  - Amphetamines
  - Phencyclidine
  - Opiates
  - **Opioids (New)**
    - **Hydrocodone** - Vicodin, Lortab, Lorcel, Maxidone, Norco, Zydone, Vicoprofen, Ibudone, Reprexain
    - **Hydromorphone** - Dilaudid
    - **Oxymorphone** - Numorphan
    - **Oxycodone** - OxyFast, OxyIR, OxyNorm, Roxicodone, OxyContin, Percocet

Opiate - natural morphine - heroine
Opioid-synthetic - pain

**Hydrocodone** is available in a variety of formulations for oral administration:
), Alor 5/500, Azdone, Damason-P, Lortab ASA, Panasal 5/500, Hysingla ER, and Zohydro ER

**Hydromorphone** is also known

**Oxymorphone** is also known as
**Oxycodone** is also known as, Endocet, Roxicet, Tylox, Endodan, Oxycodan, Percodan, Roxiprin, Combunox, Targin, Targiniq, Targinact, and Troxyca
Medical Review Officer Determination

• If a test result is positive, the MRO will contact the driver to determine if there is a valid explanation for the test result. If the driver has a valid prescription, the MRO will downgrade the test result to negative.

• If the MRO determines that the driver’s use of the drug presents a “safety risk”, the MRO is obligated to contact the driver’s employer.

• Prior to notifying the employer, the MRO will allow the driver five days to have his/her prescribing physician contact the MRO to discuss alternative options, etc.

• If the that discussion is satisfactory, the MRO will not notify the employer of a safety concern.
Fatal Flaws in Testing

- The FMCSA added three fatal flaws to its existing list of four fatal flaws.
  - If the specimen ID numbers on the specimen bottle and the Chain of Custody Form (CCF) do not match
  - The specimen bottle seal is broken or shows evidence of tampering, unless a split specimen can be redesignated
  - The collector’s printed name and signature are omitted from the CCF
  - There is an insufficient amount of urine in the primary bottle, unless the specimens can be redesignated
  - There is no CCF
  - Two separate specimens were collected using one CCF
  - There was no specimen submitted to the laboratory with the CCF
Electronic Logging Devices for Hours of Service Compliance

Final Rule

This rulemaking has been in process for many years. The Federal Motor Carrier Safety Administration (FMCSA) issued a Final Rule a few years ago, but withdrew the Rule when OOIDA filed a lawsuit due to concerns about:

- The devices being used to harass drivers by:
  - Contacting them when they are resting
  - Pressure them to drive faster, or
  - Continue driving when professional judgment of the driver indicated that it was appropriate to park.

The agency discussed ELDs with the Motor Carrier Safety Advisory Committee (MCSAC) which is comprised of stakeholders from labor, industry, safety advocates, the public, and law enforcement. The MCSAC advised the agency to limit rulemaking to only tracking HOS compliance. The Agency subsequently published a Proposed Rule that focused on HOS compliance and a Final Rule that does likewise.
Electronic Logging Devices

• What is an ELD?
  – A device that automatically records a driver’s driving time and other aspects of the HOS records.
  – Monitors a vehicle’s engine to capture data on whether the engine is running, miles driven, and engine hours.

It should be noted that the ELD does not capture HOS of data when the driver is not operating the commercial motor vehicle. The driver will have to manually enter data into the device.

Who must use an electronic logging device (ELD)?

The ELD rule applies to motor carriers and drivers who are currently required to keep records of duty service (RODS) on paper or with an Automatic Onboard Recording Device (AOBRD) under the hours-of-service (HOS) regulations. Drivers who use the timecard exception, and don’t keep paper RODs, will not be required to use ELDs.

The following drivers may keep paper RODS:
  Drivers who keep RODS no more than 8 days during any 30-day period.
  Driveaway-towaway drivers (transporting a vehicle for sale, lease, or repair), provided the vehicle driven is part of the shipment.
  Drivers of vehicles manufactured before model year 2000.
  However, a carrier can choose to use an ELD, even if it is not required.
Electronic Logging Devices

- Implementation Dates
  - Carriers and drivers who are using paper logs or logging software must transition to ELDs no later than December 18, 2017.
  - Carriers and drivers who use AOBRDS prior to the compliance date must transition to ELDs no later than December 16, 2019.
Electronic Logging Devices

• **What does the Electronic Logging Device (ELD) rule address?**
  
  – Requires ELD use by commercial drivers who are required to prepare hours-of-service (HOS) records of duty status (RODS).
  – Sets ELD performance and design standards, and requires ELDs to be certified and registered with FMCSA.
  – Establishes what supporting documents drivers and carriers are required to keep.
  – Prohibits harassment of drivers based on ELD data or connected technology (such as fleet management system). The rule also provides recourse for drivers who believe they have been harassed.

ELD manufacturers must certify that the devices meet the technical standards in the ELD rule.

Certified ELDS will be registered and listed on a FMCSA website similarly to what is currently done for drug testing laboratories that analyze specimens in the DOT drug testing program and for medical examiners who provide physical examinations for commercial drivers.
Electronic Logging Devices

- **Is an electronic logging device (ELD) required to collect data about vehicle performance?**
  - No, ELDs are not required to collect data on vehicle speed, braking action, steering function, or other vehicle performance parameters. ELDs are only required to collect data to determine compliance with HOS regulations.

- **Do the specifications in the ELD rule include requirements to automatically control the vehicle, such as other safety systems that may automatically reduce acceleration or apply braking?**
  - No, the rule does not include requirements to control the vehicle or any other safety systems.

There has been quite a bit of confusion about ELD’s versus fleet management systems. Many fleet management systems have ELD capabilities, but ELDs are not required to have fleet management system features.
Electronic Logging Devices

- *Does the Electronic Logging Device (ELD) rule require real-time tracking of commercial motor vehicle (CMVs) with ELDs?*
  - No, real-time tracking of CMVs is not required in the ELD rule. Vehicle location is only recorded at certain intervals with limited accuracy.
    - A motor carrier may use technology to track its CMVs in real-time for business purposes.
    - A motor carrier is free to use this data as long as it does not engage in harassment or violate the Federal Motor Carrier Safety Regulations (FMCSRs).
    - When the ELD is used to transmit data to safety officials, ELDs must limit location information to protect driver privacy.
Electronic Logging Devices

• **Who must use an electronic logging device (ELD)?**
  - The ELD rule applies to motor carriers and drivers who are currently required to keep records of duty service (RODS) on paper or with an Automatic Onboard Recording Device (AOBRD) under the hours-of-service (HOS) regulations.
  - Drivers who use the timecard exception, and don’t keep paper RODS, will not be required to use ELDs.

• **The following drivers may keep paper RODS:**
  - Drivers who keep RODS no more than 8 days during any 30-day period.
  - Driveaway-towaway drivers (transporting a vehicle for sale, lease, or repair), provided the vehicle driven is part of the shipment.
  - Drivers of vehicles manufactured before model year 2000.
  - However, a carrier can choose to use an ELD, even if it is not required.
Electronic Logging Devices

• *What electronic logging device (ELD) user documentation must be onboard a driver’s commercial motor vehicle?*
  – A user’s manual for operating the ELD;
  – An instruction sheet with step-by-steps instructions for transferring hours-of-service records to an authorized safety official;
  – An instruction sheet on reporting ELD malfunctions and recordkeeping procedures during ELD malfunctions; and
  – A supply of paper grid graphs to record driver duty status and related information for at least 8 days, in case of ELD malfunction.
Electronic Logging Devices

*What are the categories of supporting documents?*

- FMCSA has identified five categories of supporting documents:
  - Bills of lading, itineraries, schedules, or equivalent documents that show the starting and ending location for each trip;
  - Dispatch records, trip records, or equivalent documents;
  - Expense receipts related to “on-duty/not driving” periods (meals, lodging, fuel, etc.);
  - Fleet management system communication records;
  - Payroll records, settlement sheets, or equivalent documents showing payment to a driver.
Electronic Logging Devices

What supporting documents must be retained by drivers in their vehicles?

- A driver is not required to retain any supporting documents in the vehicle. However, a driver must show any supporting documents that are in a vehicle to authorized safety officials on request.

Can supporting documents be limited to only those acquired at the beginning and end of the workday?

- No, it is important to keep documents received throughout the day to verify hours of service compliance with the 60/70-hour rule over a period of days.
Electronic Logging Devices

What is the definition of harassment in the Electronic Logging Device (ELD) rule?

- Harassment is action taken by a motor carrier that the carrier knew (or should have known) would result in a driver violating the Hours of Service (HOS) rules or a situation where the driver is operating while ill or fatigued. The carrier’s action must be based on information from an ELD or other technology used in combination with an ELD.
Electronic Logging Devices

What are the differences between harassment and coercion?

- Harassment is very specific; harassment occurs when a driver commits an HOS violation based on carrier actions that were related to ELD use.
- Coercion is much broader, and is not limited to HOS violations. Coercion occurs when a motor carrier, shipper, receiver, or transportation intermediary threatens to withhold work from, take employment action against, or punish a driver for refusing to operate in violation of certain provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), Hazardous Materials Regulations (HMRs) and the Federal Motor Carrier Commercial Regulations (FMCCRs). Coercion may be found to have taken place even if a violation has not occurred. FMCSA has published a separate rule on coercion.
Medical Qualifications

Sleep Apnea
Seizure Disorders
Sleep Apnea

Sleep apnea is a potentially serious sleep disorder in which breathing repeatedly stops and starts.
## Sleep Apnea

- **Height/Weight**
  - 5 feet, 4 inches/204 lbs
  - 5 feet, 5 inches/211 lbs
  - 5 feet, 6 inches/217 lbs
  - 5 feet, 7 inches/224 lbs
  - 5 feet, 8 inches/230 lbs
  - 5 feet, 9 inches/237 lbs
  - 5 feet, 10 inches/244 lbs
  - 5 feet, 11 inches/251 lbs
  - 6 feet, 0 inches/258 lbs
  - 6 feet, 1 inch/265 lbs
  - 6 feet, 2 inches/273 lbs
  - 6 feet, 3 inches/280 lbs
  - 6 feet, 4 inches/288 lbs
  - 6 feet, 5 inches/295 lbs

- **Body Mass Index**
  - 35.0
  - 35.0
  - 35.0
  - 35.0
  - 35.0
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  - 35.0
  - 35.0
Manila Group did a meta-analysis of pooled data from other studies and determined that drivers who have OSA are over 2 times as likely to have a crash when compared to drivers who don’t have OSA. It should be noted that the pooled data includes that from commercial drivers and from non-commercial drivers.
The Medical Review Board reviewed the latest scientific and medical research concerning OSA and determined that there is a need to update the guidance to medical examiners. MRB met with the Motor Carrier Safety Advisory Committee to discuss the proposed revisions and to get input from MCSAC members regarding how the revisions will impact on drivers and the trucking industry. The Congress instructed FMCSA to conduct rulemaking. The result is that there is no guidance provided to medical providers and each provider is determining what is appropriate for his/her practice. Consequently, many of our members are having to submit to sleep studies for simply having one or two risk factors.

Sleep Apnea

- MRB recommended revising regulatory guidance for medical examiners
- MRB met with MCSAC to discuss proposed revisions
- Congress instructed FMCSA to refrain from issuing guidance and to conduct rulemaking on this issue.
  - Because there is no guidance, medical providers are determining what is the best practice for their individual operation.
  - Not likely that FMCSA will conduct rulemaking in the foreseeable future.
If a driver has a history of sleepiness during their normal awake period or if they have had a fatigue related crash, the driver will be taken out of service. The driver will not be allowed to operate a CMV until he/she submits to a sleep study and demonstrates compliance with any required treatment.

If a driver has been diagnosed with sleep apnea, but refuses to comply with treatment, he/she will be removed from service.

Compliant treatment is defined as using the PAP treatment for at least 4 hours per day for at least 70% of the days in a week.
It is important to note that if you have a BMI of 35 or higher, many medical examiners will require drivers to be evaluated for sleep disorders prior to issuing a medical certificate. The remaining risk factors as listed above will be considered individually or collectively when determining whether a driver should be evaluated for sleep disorders.
For the at-home test, if the result is negative, the driver will likely have to submit to an in-lab test. Testing is fairly expensive.
Seizure Disorders

Exemption Program
It is anticipated that due to significant medical advances in the treatment of seizure disorders, the FMCSA will propose to modify the medical qualification regulations to permit drivers who have seizure disorders to operate CMVs.
Worker Safety and Health

Labor Union Perspective
Labor Union Philosophy Regarding OSH

- Fundamental problems of worker health and safety are not technical but tied to power relations and control between workers and management
- Worker participation in development and implementation of OSH programs is critical to their success
- OSHA programs must have strong enforcement and penalties large enough to have strong deterrent effect
This slide shows the differing emphases of a labor union approach to worker health and safety compared to an industrial hygiene or safety professional approach. It should be noted that these two general approaches are neither mutually exclusive nor contradictory; rather, they differ from each other in terms of emphasis.

Some of the major elements of the labor union philosophy on OSH issues include: First, that the Fundamental problems of worker health and safety are not technical but, rather, are tied to power relations and control between workers and management. That is, that the extent to which workers have the authority to act to protect their health and safety is critical. They point out that substantial evidence backs up their claim that unionized workplaces are almost always safer and healthier than non-union workplaces.

Secondly, that worker participation in the development and implementation of OSH programs is critical to their success.

Third, that state and federal OSH programs must have strong enforcement and penalties large enough to have a strong deterrent effect.
Fourth, that work injuries are primarily caused by unsafe conditions \textit{not worker behavior}.

Fifth, that workers’ knowledge of their rights and willingness to use them are key to safer working conditions.

And, finally, that meeting OSHA standards, often viewed at the primary goal by health and safety managers, is not good enough: but rather that employers should strive to achieve the maximum hazard reduction possible.
Unions are strong proponents of good technical answers to workplace health and safety challenges such as engineering controls to minimize worker exposures and effective personal protective equipment, but they don’t see these technical solutions as sufficient in themselves. Rather, workers must be able to take action to prevent injuries and illnesses.
Unions argue that workers’ rights to take action to protect their health and safety and the actual ability to exercise these rights are essential to maintaining safe and healthy workplaces. These rights include:

The Right to refuse dangerous work, which unions argue must be a real, enforceable right, not one that merely exists on paper;
The Right to file a complaint and get an inspection without fear of retaliation;
The Right to accompany an inspector on a walkaround of the workplace;
The Right to obtain information on hazards of materials with which they work
### Legal Rights and Union backing

- Unions argue that rights are meaningless without adequate enforcement: in most non-union workplaces, legal rights are impossible to enforce.
- Better protections often available through union contracts than through OSH regulations and standards.

Unions argue that rights are meaningless without adequate enforcement: in most non-union workplaces, legal rights are very difficult to enforce. In fact, considerable evidence exists showing that workers in non-union workplaces are extremely vulnerable to retaliation for reporting work hazards. Studies have found that the great majority of workers who file complaints under OSHA’s 11c rule protecting so-called “whistleblowers” never get their jobs back.

Union health and safety leaders also point out that they are often able to negotiate stronger health and safety protections for their members through their contracts than are available under OSHA law, giving union members better health and safety conditions than non-union workers enjoy.
The concept of employee involvement in all aspects of a business has become almost a given among more enlightened businesses. This has not always extended in a meaningful way to health and safety programs. Unions emphasize that worker participation in OSH programs is essential and that workers must be involved in every aspect of the development and implementation of OSH programs to ensure their success.

Many studies have, indeed, supported the labor view that worker participation is key for safety and health as well as quality in the workplace.
Worker involvement must be meaningful

- Workers must not be merely “window dressing” on joint health and safety committees, but must have meaningful roles and believe that they can influence policies and practices.

But simply establishing a health and safety committee that includes workers and looks good on paper is not enough to ensure a strong workplace OSH program. Workers must not be merely “window dressing” on joint health and safety committees, but must have meaningful roles and believe that they can influence policies and practices.
Worker Safety and Health

Union S&H Professional Activities
Worker Safety and Health

- Legislative
- Regulatory
- Technical
- Research
- Adjudication
- Training
- Organizing
- Collective Bargaining

A union safety and health professional is typically involved activities including, but not limited to the ones listed here.
Legislative Activities

- Draft language for inclusion in safety and health related bills
- Analyze bills concerning worker safety and health
- Partner with other stakeholders to lobby elected officials on safety and health issues
- Testify during Congressional Hearings

- Safety and health professionals in labor frequently partner with safety and health professionals and lobbyists from safety and health advocacy groups and union lobbyists to work with staff members of elected political officials to provide technical and regulatory expertise to the drafters of legislation. The S&H professional's input can range from providing advice and guidance on technical issues to actually assisting in the drafting of the actual language included in the Bill.
- Oftentimes Bills are presented to the S&H professionals to review and analyze relative to how the Bills, if passed, could affect the union membership.
- Elected officials and their staff members sometimes ask union S&H professionals to meet with them to discuss the technical and/or regulatory aspects of proposed legislation.
- Union S&H professionals routinely appear before the Congress to testify on various safety and health issues. I’ve testified on a wide range of issues including the transportation bill, various aspects of transporting hazardous materials, worker safety training, and commercial driver health and safety.
- Unions also work with unions and coalitions from other countries to discuss strategies and develop language for incorporation into the legislative process in those respective countries. I recently participated in a tripartite meeting of union, employer, and governmental officials in Geneva, Switzerland to discuss driver safety issues and to develop resolutions for incorporation into the International Labour Organizations policies and guidance for surface transportation.
Unions partner with other stakeholders to discuss regulatory priorities and to help the agencies develop regulatory priorities. When agencies publish NPRMs, unions draft comments to the rulemaking docket. During rulemaking activities, agencies oftentimes conduct hearings to allow stakeholders the opportunity to testify to either advocate for or reject the proposed rule. When agencies conduct inspections/site visits, union S&H professionals oftentimes accompany the COSHO or inspectors. When agencies issue citations, union H&S professionals assist the members in electing party status to participate in the resolution of the enforcement action.
Technical Activities

- Conduct worksite inspections/surveys
- Conduct personal and environmental monitoring
- Review and analyze occupational illness and injury records/transportation safety data/exposure monitoring data
- Provide constituents with interpretation of regulations/standards
- Provide constituents with professional opinion and guidance regarding specific occupational safety and health issues
Research Activities

- Partner with universities, governmental agencies and other research institutions to conduct worker safety and health studies
- Provide researchers with cohorts to investigate OHS issues
- Conduct research projects with in-house technical staff

Research universities, NIOSH
Worker exposures to chemicals, e.g., diesel exhaust, diacetyl.
Driver health issues, e.g., sleep apnea, diabetes, hypertension.
Noise among airline workers
All of our collective bargaining agreements contain language which details the process that is used to resolve conflicts. A large number of our CBAs contain language concerning worker safety and health and drug and alcohol testing. Much of the language is based on various worker safety and health regulations and standards. When there is an allegation of a contract violation, union health and safety professionals may receive requests to provide regulatory interpretations, to provide assistance developing strategies to resolve the issue(s), and possibly testify as a subject matter expert on this issue. In arbitrations, especially those that have national impact, OHS professionals may be called upon to provide expert testimony during those proceedings.

As I mentioned earlier, we also work with our locals and enforcement agencies to resolve other types of legal issues.
Many unions, including the Teamsters provide training to the membership on a wide variety of worker safety and health issues. The Teamsters provide training on issues such as hazcom, hazwoper, driver safety training, hazmat transportation, radioactive waste transportation, forklift safety, respiratory protection.
Virtually everything that I have discussed at this point, supports the collective bargaining process. Union Safety and health professionals are very involved in collective bargaining. We collect and analyze data. Develop contract proposals to address occupational hazards. We may even have the opportunity to actively participate during actual bargaining process.
Organizing Activities

• Provide organizing committees with OHS information
• Develop tools (surveys, checklists) to assist committee to identify occupational hazards
• Analyze injury and illness data
Case Study

- Workers at large motor carrier experienced numerous injuries due to exposures to chemicals that occurred during loading/unloading/transport
- OSHA complaints filed in locations nationwide
  - Many citations issued
- Union met with OSHA to discuss non-compliance, suggested corporate-wide failure to comply with applicable standards

Hazwoper, Hazcom, PPE.
Case Study

- OSHA, motor carrier, Teamsters met to discuss a settlement of the citations
- Parties reached agreement
- Union and motor carrier agreed to incorporate the elements of the settlement agreement into the CBA
- The agreement is now enforceable by OSHA and is subject to the CBA grievance machinery
Contact Information

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