



IBT

Safety and Health Department Regulatory Update

Enjoli DeGrasse, Industrial Hygienist

June 9, 2018

Steward Seminar

Local Union 667

Memphis, TN



Safety and Health Issues

- OSHA Website update
- OSHA/CDC Heat App
- OSHA Injury Illness Reporting Final Rule
- OSHA Walking Working Surfaces Final Rule
- Driver Specific Regulations
 - Drug and Alcohol Testing Clearinghouse
 - Revisions to Drug Testing Regulation
 - Electronic Logging Devices - Commercial Vehicles
 - Coercion Rule
 - Medical Qualifications
 - Sleep Apnea
 - Seizure Disorders

New OSHA Website



UNITED STATES
DEPARTMENT OF LABOR



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A TO Z INDEX

Occupational Safety and Health Administration

[English](#) | [Spanish](#)

[ABOUT OSHA](#) - [WORKERS](#) - [EMPLOYERS](#) - [REGULATIONS](#) - [ENFORCEMENT](#) - [TOPICS](#) - [NEWS & PUBLICATIONS](#) - [DATA](#) - [TRAINING](#)



National Safety Stand-Down To Prevent Falls in Construction May 7-11, 2018

TAKE ACTION



Contact OSHA



File a safety and health complaint



Report a death or severe injury



Get whistleblower information



Submit 2017 data electronically



Request a free consultation



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Check our frequently asked questions

NEWSLETTER

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NEWS

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may 3, 2018

OSHA Schedules Meeting to Request Comments on Whistleblower Issues in the Railroad and Trucking Industries

May 3, 2018

5th Annual National Safety Stand-Down to Prevent Falls Begins May 7

April 30, 2018

U.S. Department of Labor Fixes Error Dating to 2016 Implementation of "Improve Tracking of Workplace Injuries and Illnesses" Regulation

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OSHA_DOL
@OSHA_DOL

If you'd like to participate in the #StandDown4Safety May 7-11, you can find an event in your area here: osha.gov/StopFallsStand...

2h



OSHA_DOL
@OSHA_DOL

ICYMI: @OSHA_DOL and @AESCNational have renewed an alliance to keep Texas oil and gas workers safe → osha.gov/news/newsrelea...

22h

[Tweet to @OSHA_DOL](#)

OSHA WORKING WITH EMPLOYERS

Training

Compliance Assistance

Cooperative and Recognition Programs

Below are just a few examples of our cooperative programs that work with and recognize employers who create safe workplaces.

[Frank D. Riggio Co. Inc.](#), NJ: Reduced injury and illness rates, and insurance costs with help from OSHA's On-Site Consultation Program.

OSHA Consultation Offices by State



Consultation Offices can help employers identify workplace hazards, comply with standards, and establish safety and health programs. This service is free and confidential.

OSHA FAQ Page

OSHA Frequently Asked Questions



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[Recent OSHA Regulations](#)

[Training and Certifications](#)

[Employer Assistance](#)

[Information for Workers](#)

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[Drinking Water, Restroom Use,
Sanitation](#)

[Endorsements and the OSHA Logo](#)

[Hazardous Chemicals](#)

[Indoor Air Quality](#)

[Personal Protective Equipment](#)

[Temperature and Weather-Related](#)

[Wages, Hours Worked,
Workers' Compensation](#)

[Working Alone](#)

[Workplace Violence](#)

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 gives 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 their employer is not following OSHA standards. Workers do not have to know whether a specific OSHA standard has been violated in order to file a complaint.

Who can file a complaint and what are the steps?

Workers or their representatives may [file a complaint](#) online or by phone, mail, email or fax with the [local OSHA office](#) and request an inspection of a workplace if they believe there is a violation of a safety or health standard, or if there is any danger that threatens physical harm. A worker may also ask OSHA not to reveal his or her name. In addition, anyone who knows about a workplace safety or health hazard may report unsafe conditions to OSHA, and OSHA will investigate the concerns reported.

What should I do if I've been fired or punished for reporting safety or health concerns?

If a worker believes an employer has retaliated against them for exercising their safety and health rights, they should contact their [local OSHA office](#) right away. A [whistleblower](#) complaint must be filed with OSHA within 30 calendar days from when the retaliatory decision was made and communicated to the worker. OSHA will accept a complaint in any language. Call [1-800-321-OSHA](#) (6742) or contact your [local OSHA office](#).

Has my employer ever been cited by OSHA?

You can research your employer's inspection history through OSHA's [establishment search](#). Type in the name of your company and choose the dates you want to cover.

Can my employer stop me from seeing injury or illness records?

No. Current and former employees, or their representatives, have the right to access injury and illness records. Employers must give the requester a copy of the relevant record(s) by the end of the next business day.

If you can't find the answer to your question on this page, check our [A - Z Index](#) or [Ask OSHA](#).

Heat Stress



UNITED STATES
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Find it in OSHA



[A TO Z INDEX](#)

Occupational Safety and Health Administration

[English](#) | [Spanish](#)

[ABOUT OSHA](#) ▾ [WORKERS](#) ▾ [EMPLOYERS](#) ▾ [REGULATIONS](#) ▾ [ENFORCEMENT](#) ▾ [TOPICS](#) ▾ [NEWS & PUBLICATIONS](#) ▾ [DATA](#) ▾ [TRAINING](#) ▾

[Home](#) / [Heat Illness Prevention Campaign](#)



WATER. REST. SHADE.

OSHA's Campaign to Keep Workers Safe in the Heat



OSHA-NIOSH Heat Safety
Tool Smartphone App

iPhone

Android

Learn about heat illness symptoms and prevention from our Heat Safety Page

Educational and Training Materials

Videos and Graphics



Heat safety resources from multiple federal agencies

Our Campaign

Our Heat Illness Prevention campaign, launched in 2011, educates employers and workers on the dangers of working in the heat. Through training sessions, outreach events, informational sessions, publications, social media messaging and media appearances, millions of workers and employers have learned how to protect workers from heat. Our safety message comes down to three key words: **Water. Rest. Shade.**

Dangers of Working in the Heat

Every year, dozens of workers die and thousands more become ill while working in extreme heat or humid conditions. More than 40 percent of heat-related worker deaths occur in the construction industry, but workers in every field are susceptible. There are a range of heat illnesses and they can affect anyone, regardless of age or physical condition.

Employer Responsibility to Protect Workers

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

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

Resources

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



[Learn what employers are doing around the country to protect workers from heat illness.](#)

Submit your ideas

#WaterRestShade Tweets

CA Contractors Board Retweeted



DIR Communications
@CA_DIR

#Heat season is almost here. Join @CA_DIR for the Heat Illness Prevention Network conference call on Tuesday, April 24. #CalOSHA will review the best practices for preventing #HeatIllness. #WaterRestShade



Reminder!

Heat Illness Prevention Network Telephone Conference Call
Tuesday, April 24th

WHO: Arlene Fisher, Department of Industrial Relations, Acting Director
Arlene Rice, California Dept
Nathan Nivens, California Assistant Chief Counsel
David Henning, California Heat Program Coordinator
Eugene Chelidopoulos, California Construction Services Program Manager

Heat Safety Tool

App Store Preview

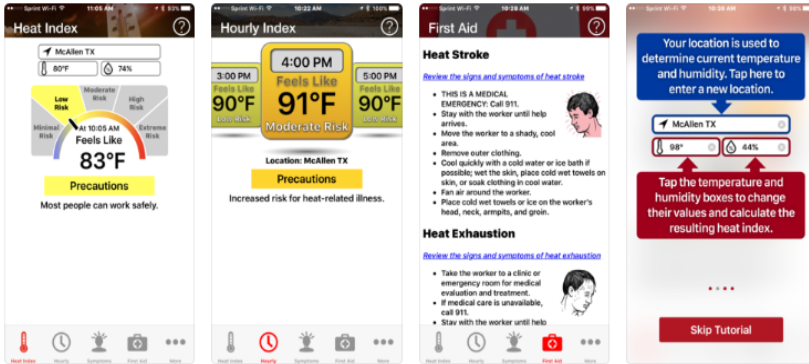
This app is only available on the App Store for iOS devices.



OSHA-NIOSH Heat Safety Tool 12+
Centers For Disease Control and Prevention

#47 in Weather
★★★★☆ 8 Ratings
Free

iPhone Screenshots



Description

Take precautions against outdoor heat while at work with the OSHA-NIOSH Heat Safety Tool. Featuring real-time heat index and hourly forecasts, specific to your location, as well as occupational safety and health recommendations from OSHA and NIOSH. The OSHA-NIOSH Heat Safety Tool is a useful resource for planning outdoor work activities based on how hot it feels throughout the day.

The OSHA-NIOSH Heat Safety Tool features:

- A visual indicator of the current heat index and associated risk levels specific to your current geographical location
- Precautionary recommendations specific to heat index-associated risk levels
- An interactive, hourly forecast of heat index values, risk level, and recommendations for planning outdoor work activities in advance
- Editable location, temperature, and humidity controls for calculation of variable conditions
- Signs and symptoms of heat-related illnesses including: heat stroke, heat exhaustion, rhabdomyolysis, heat cramps, and heat rash
- First aid information for heat-related illnesses



OSHA NIOSH Heat Safety Tool

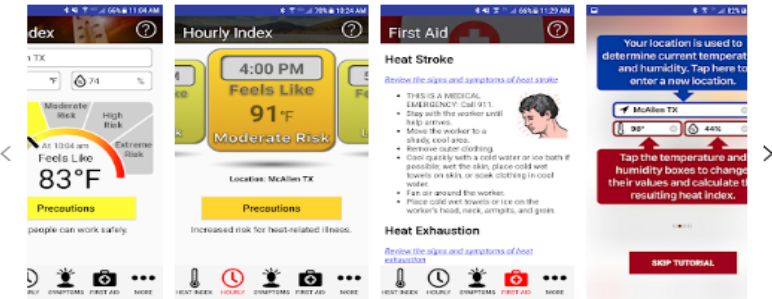
Centers for Disease Control and Prevention Weather ★★★★★ 44

Everyone

This app is compatible with some of your devices.

Add to Wishlist

Install




Take precautions against outdoor heat while at work with the OSHA-NIOSH Heat Safety Tool.

Featuring real-time heat index and hourly forecasts, specific to your location, as well as occupational safety and health recommendations from OSHA and NIOSH. The OSHA-NIOSH Heat Safety Tool is a useful resource for planning outdoor work activities based on how hot it feels throughout the day.

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- First aid information for heat-related illnesses

Take steps to work safely in the heat. Download this valuable tool today!



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**.



Walking Working Surfaces

- [Final Rule to Update General Industry Walking-Working Surfaces and Fall Protection Standards / Effective Jan. 17, 2017](#)
- What are the major changes in this rule?
- 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.



Drug and Alcohol Testing Clearinghouse

Applicable to
DOT-CDL Qualified Drivers



Drug and Alcohol Clearinghouse

- The Federal Motor Carrier Safety Administration conducted rulemaking and issued a Final Rule rule to establish a clearinghouse which will require the following:
 - Create such a repository (database) for all non-negative drug and alcohol testing results
 - Require employers to conduct pre-employment searches for all new CDL drivers and annual searches on current drivers.



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.



Review:

Drug and Alcohol Clearinghouse

- The Drug & Alcohol Clearinghouse will be a database containing CDL drivers' drug and alcohol program violations.
- It will also contain information about whether a driver has successfully completed the mandatory return-to-duty drug and/or alcohol rehabilitation process.
- Implementation date: January 6, 2020
- Clearinghouse requirements fall into two major categories:
 - Reporting and
 - Querying



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



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.

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.



Drug and Alcohol Clearinghouse

- To ensure the privacy of drivers involved, each CDL holder would need to provide his or her consent, before an employer could access the clearinghouse.
- Drivers will also have access to their respective information to ensure that all information therein is accurate. Registration is required.
- The Agency proposes to retain data for 3 to 5 years.
- The rule is at the OMB for review prior to publishing.

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, Lorcet, Maxidone, Norco, Zydone, Vicoprofen, Ibudone, Reprexain
 - **Hydromorphone** - Dilaudid
 - **Oxymorphone** - Numorphan
 - **Oxycodone** - OxyFast, OxyIR, OxyNorm, Roxicodone, OxyContin, Percocet

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



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.

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 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 (FMCCR). 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

- Sleep Apnea
 - Studies show that drivers who have OSA are over 2 times as likely to have a crash than drivers who don't have the disorder
 - Research indicates that there is a high correlation between Body Mass Index (BMI) and OSA, so BMI is a good indicator of OSA
 - Studies show that there is a high correlation between a diagnosis of OSA and excessive daytime sleepiness



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.



Sleep Apnea

- Sleep Apnea Recommendations
 - Driver will be disqualified immediately if the driver
 - Admits to experiencing excessive sleepiness during the major wake period while driving
 - Experienced a crash associated with falling asleep, or
 - Has been found non-compliant with treatment



Sleep Apnea

- Sleep Apnea Screening (Risk Factors)
 - BMI equal to or greater than 35
 - Reported loud snoring
 - Witnessed apneas
 - Reported sleepiness during the major wake period
 - Small or recessed jaw
 - Small airway (Mallampti Scale of Class 3 or 4)
 - Neck size (17 inches for men, 15.5 inches for women)
 - Hypertension (treated or untreated)
 - Type 2 diabetes
 - Age 42 or above
 - Family history
 - Experienced a single-vehicle crash



Sleep Apnea

- Sleep Apnea (Diagnostic Process)
 - In-lab polysomnography
 - At-home polysomnography
 - Is not as comprehensive as in-lab test
 - If negative, driver will have to submit to in-lab test
 - Treatment Options
 - CPAP
 - Bariatric Surgery
 - Tracheotomy
 - Weight Loss – Non-surgical
 - Dental Appliances – Not currently acceptable as effective treatment for moderate to severe OSA



Seizure Disorders

Exemption Program



Seizure Disorders

- There is no formal exemption program, unlike those for vision and diabetes.
- FMCSA does allow drivers who have medically controlled seizure disorders to apply for and receive an exemption which allows them to operate commercial motor vehicles.

Seizure Exemption Criteria

Seizure Exemption Application

Welcome to the FMCSA Seizure Exemption Program application site. All of the information you will need to apply for an exemption from the epilepsy regulation in 49 CFR 391.41(b)(8) is located here.

If you are applying for a Seizure exemption, please first review the following criteria, you must meet these conditions to be considered:

- **Seizure Disorder/Epilepsy diagnosis.** If there is a seizure disorder/epilepsy diagnosis, the applicant should be seizure-free for 8 years, on or off medication. If the individual is taking anti-seizure medication(s), the plan for medication should be stable for 2 years. Stable means no changes in medication, dosage, or frequency of medication administration. Recertification for drivers with an epilepsy diagnosis should be performed every year.
- **Single unprovoked seizure.** If there is a single unprovoked seizure (i.e., there is no known trigger for the seizure), the individual should be seizure-free for 4 years, on or off medication. If the individual is taking anti-seizure medication(s), the plan for medication should be stable for 2 years. Recertification for drivers with a single unprovoked seizure should be performed every 2 years.
- **Single provoked seizure.** If there is a single provoked seizure (i.e., there is a known reason for the seizure), the Agency will consider specific criteria that fall into the following two categories: low-risk factors for recurrence and moderate-to-high risk factors for recurrence.
 - **Examples of low-risk factors for recurrence** include seizures that were caused by a medication; by non-penetrating head injury with loss of consciousness less than or equal to 30 minutes; by a brief loss of consciousness not likely to recur while driving; by metabolic derangement not likely to recur; and by alcohol or illicit drug withdrawal.
 - **Examples of moderate-to-high-risk factors for recurrence** include seizures caused by non-penetrating head injury with loss of consciousness or amnesia greater than 30 minutes, or penetrating head injury; intracerebral hemorrhage associated with a stroke or trauma; infections; intracranial hemorrhage; post-operative complications from brain surgery with significant brain hemorrhage; brain tumor; or stroke.

If you meet the above criteria, then you may submit an application to be considered for an exemption. First, the Agency must make a thorough review of your medical records and any other documents that would support your request for an exemption from this regulation. We require the following information:

IBT Safety and Health Department

- Contact Information
 - (202) 624-6960
 - IBTSafety@teamster.org
 - www.teamster.org
 - www.teamstersafety.org