



# SAFETY & COMPLIANCE CENTRAL

September 30, 2019

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- CVSA Brake Week Results
- 5 Federal Trucking Regulatory Changes in the Works

## Trucking Industry Weighs Sleep Apnea as a Safety Issue for Drivers

By Tribune Content Agency | August 3, 2019

Chris Peters sat in his rig at Stockmen's Truck Stop in South St. Paul, Minn., last month, contemplating his next truckload and seeking cool refuge from Minnesota's stifling heat.

All around, big trucks lined up in neat formation as drivers settled in their cabs to get some much-needed rest. Peters, a Nebraska-based professional truck driver for nearly 15 years, is an anomaly: He sleeps like a baby. "I could take a nap right now," he said.

But many other drivers in the notoriously high-stress industry aren't so lucky. Research from the University of Minnesota, Morris suggests that the sleep disorder known as obstructive sleep apnea is a serious safety problem – not only for the nation's truck drivers, but for the motorists who share the road with them. That extensive body of research found drivers who did not treat the sleep disorder had a preventable crash risk five times higher than those who sought treatment.

Highly publicized crashes in recent years involving drowsy truck drivers and railroad engineers have highlighted the importance of proper rest in the hard-charging industry. A Hibbing, Minn., truck driver with a long history of sleep apnea was jailed last year after he "blacked out" behind the wheel, killing a 31-year-old man in 2015, according to media reports.

"Standard tractor-trailers weigh about 80,000 pounds fully loaded," said Stephen Burks, an economics professor who leads the Truckers and Turnover Project at Morris, and a former truck driver himself. "If a tractor-trailer collides with a car, the car generally loses."

Although the Obama administration supported mandatory screening of truck drivers for sleep apnea, President Donald Trump reversed course, part of his broader strategy of mitigating government regulations. The issue has surfaced in congressional hearings as recently as this spring,

and mandatory testing still has champions in government, although it's unclear whether they have any traction.

More screening?

Despite the lack of a federal mandate calling for truck drivers to be screened for sleep apnea, the U.S. Department of Transportation does require a medical examination in order to hold a commercial driver's license. It's up to the doctor performing the exam to determine whether the driver needs sleep apnea testing.

How pervasive is the problem? Among the 1.87 million U.S. nonfarm commercial drivers estimated by the Bureau of Labor Statistics, 17% to 28% are expected to have at least mild obstructive sleep apnea based on studies of commercial drivers, Burks said.

Obstructive sleep apnea involves a pause in breathing during sleep lasting at least 10 seconds. Left untreated, the disorder may lead to all sorts of health problems, including high blood pressure, heart disease, mood and memory lapses and drowsy driving, according to the National Sleep Foundation. Chicago-based truck driver Bob Stanton was diagnosed with sleep apnea in 2002 after experiencing chest pains while unloading cargo at a Sears store. After he "went through a lot of administrative malarkey," he was fitted with a continuous positive airway pressure (CPAP) mask that sends a constant flow of air pressure to the throat during sleep, ensuring it stays open. The mask changed his life, he said. "It was like night and day."





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## Trucking Industry Weighs Sleep Apnea as a Safety Issue for Drivers Continued

Stanton, who has since launched a patient support group called Truckers For A Cause, said the ease of diagnosis and treatment for truckers with sleep apnea has improved greatly over the past 15 years. "It's gone from about a month off from work to no time lost now," he said, noting the stigma has lessened, as well.

Green Bay, Wis.-based trucking firm Schneider, which worked with Burks on his research, screens all new drivers for sleep apnea and pays for treatment, if necessary. Schneider began screening in 2006, becoming the first large-scale employer to do so.

"Our goal is to make sure drivers come home, and we want to make sure the motoring public is safer, as well," said Tom DiSalvi, Schneider's vice president of driver training and compliance. Schneider employs about 15,000 drivers. But not all trucking firms can afford to test and treat drivers, and research on the topic of sleep apnea is controversial.

"Safety is paramount in our business so we'd say yes to the question of screening," said John Hausladen, president of the Minnesota Trucking Association. "But then it gets into how."

Some in the industry question the veracity of the sleep apnea research. The Owner-Operator Independent Drivers Association opposes mandatory screening and says its own research shows no link between drivers with sleep apnea and commercial motor vehicle crashes.

"There hasn't been any real research that links the two," said Andrew King, a research analyst with the Missouri group's foundation. Furthermore, "we have a problem with putting in place mandates that are more about benefiting someone's pocketbook rather than actually improving highway safety," added Norita Taylor, the association's spokeswoman.

The potential cost to the industry for testing and treatment of drivers with sleep apnea is \$740 million to \$12.8 billion, according to the independent drivers' association. Many employers don't cover the costs of screening or treatment, leaving drivers to pick up the tab. loading and unloading his trailer and keeping an eye on his diet.

"I'm not a medical expert, but you're sedentary on this job, you can gain weight," he said. "You can come up with a hundred different ways to say there's a problem, but is it a problem?"

<https://www.dailyrepublic.com/all-dr-news/wires/business/trucking-industry-weighs-sleep-apnea-as-a-safety-issue-for-drivers/>



## More Than 1,600 Commercial Motor Vehicles Removed from Roadways for Critical Brake-related Violations

By CVSA | August 7, 2019

On May 15, 2019, the Commercial Vehicle Safety Alliance's (CVSA) law enforcement members conducted 10,358 commercial motor vehicle inspections focused on identifying brake system violations. Of those inspections, 16.1% of vehicles had brake-related critical vehicle inspection items. Those 1,667 vehicles were placed out of service until the violations could be corrected.

According to the U.S. Department of Transportation's Federal Motor Carrier Safety Administration (FMCSA), more than half a million commercial motor vehicle violations in 2017 were related to brakes. CVSA aims to call attention to this serious issue through its targeted brake safety enforcement and awareness campaigns, such as the May 15 unannounced inspection blitz. This enforcement initiative highlights the work that's done by inspectors every day to keep our roadways safe. Checking brake systems and their components is always part of roadside vehicle inspections.

Inspectors also paid close attention to violations involving brake hoses/tubing:

- There were 996 units with chafed rubber hose violations.
- 185 units had chafed thermoplastic hose violations.
- There were 1,125 violations of 49 Code of Federal Regulations § 393.45 and Canadian equivalent violations that included chafed rubber hoses.
- There were 124 violations of 49 Code of Federal Regulations § 393.45 and Canadian equivalent violations that included kinked thermoplastic hoses.



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“Brake hoses and tubing must be properly attached, undamaged, without leaks and appropriately flexible,” said CVSA President Chief Jay Thompson with the Arkansas Highway Police. “Because they are such an important part of the braking system, the failure of hoses or tubing can cause problems for the entire braking system.”

Fifty-five jurisdictions in the U.S. and Canada participated in this focused one-day brake safety inspection and enforcement initiative. Participation by law enforcement jurisdictions is voluntary and depends upon availability of staff and resources. Each participating jurisdiction captured and reported its May 15 data to CVSA. Inspection data from Canada and the U.S. featured the following notable results:

- 55 jurisdictions participated – 45 U.S. states and territories and 10 Canadian provinces and territories.
- A total of 10,358 inspections were conducted.
- The U.S. conducted 8,738 commercial motor vehicle inspections; Canada conducted 1,620.
- 16.1% or 1,667 of commercial motor vehicles inspected were placed out of service for brake violations.
- In the U.S., 16.6% of commercial motor vehicles were placed out of service for brake violations.
- In Canada, 13.5% of commercial motor vehicles were placed out of service for brake violations.
- Nearly 84% of commercial motor vehicles inspected did not have any critical brake-related inspection item violations.

According to FMCSA’s Analysis and Information Online 2019 calendar year data snapshot as of June 28, 2019, out of 1.8 million inspections, the top five brake-related violations were:

1. Clamp or roto type brake out of adjustment (86,296)
2. CMV manufactured after Oct. 19, 1994, has an automatic brake adjustment system that fails to compensate for wear (45,594)
3. Brake hose or tubing chafing and/or kinking (37,737)
4. No or defective ABS malfunction indicator lamp for trailer manufactured after March 1, 1998 (37,343)
5. Inoperative/defective brakes (32,125)

CVSA conducts brake-focused enforcement events, such as Brake Safety Day, to identify and remove commercial motor vehicles with dangerous brake issues from our roadways to reduce the number of crashes caused by or made more severe by deficient braking system performance.

CVSA is holding another brake safety enforcement event this year, Brake Safety Week, which is scheduled for Sept. 15-21, at participating jurisdictions throughout North America. The week is an annual outreach and enforcement campaign designed to improve commercial motor vehicle brake safety.

Brake Safety Day and Brake Safety Week are inspection, enforcement, education and awareness initiatives that are part of the Operation Airbrake Program sponsored by CVSA in partnership with FMCSA and the Canadian Council of Motor Transport Administrators

<https://www.cvsa.org/news-entry/2019-unannounced-brake-safety-day-results/>





# SAFETY & COMPLIANCE CENTRAL

April 9, 2019

## 5 Federal Trucking Regulatory Changes in the Works By Jim Beach | September 17, 2019

Two of the items have already had final rules issued, and are expected to become part of the regulatory landscape in the near future. Those rules include one establishing a CDL drug and alcohol clearinghouse and one involving entry-level driver training.

**1. Drug and Alcohol Clearinghouse:** The drug and alcohol clearinghouse rule was finalized at the end of 2016 but was put on hold by the new presidential administration for further review – something that is quite common when administrations change, Osiecki said. That rule looks to be finally moving toward implementation, as it has strong backing within the trucking industry. A website, [clearinghouse.fmcsa.gov](http://clearinghouse.fmcsa.gov), was established by FMCSA in February, and users may start registering and setting up accounts in October, with implementation of the rule beginning Jan. 6, 2020.

All parties involved in the drug and alcohol testing process for CDL holders will be required to register, including motor carriers (employers), consortiums/TPAs, service agents, medical review officers/substance abuse professionals, and drivers – at least most of them over time. Not every driver will have to register (those who are long-time employees and who have never failed a drug/alcohol test probably won't be required to register.)

Beginning Jan. 6, carriers will be required to query the system when hiring and annually for all current CDL holders in their employ. Carriers will conduct a limited query first, which only tells them if there is a record in the database on that driver. If the query comes back 'yes, there's info,' then a full query is required.

Driver consent is required to query the database. That can be a consent form included in the application packet for limited queries, but for full queries, drivers must give their consent through the clearinghouse. Queries are \$1.25 each – there are bundles offered, but there is no price break. Carriers have to have money in their account before they can query. There is a no-limit annual fee of \$24,500, but only a few carriers in the country would need the unlimited plan.

Carriers have three business days to report violations, including refusals to be tested.

As with most FMCSA regulations, there are record-keeping requirements. A record of each query and information obtained from the clearinghouse must be kept for three years. For the first three years, employers must both query the clearinghouse and conduct manual queries an applicant's former employee, since it will take some time for the database to be populated with data. After Jan. 6, 2023, employers must only use the clearinghouse.

While many trucking companies have pushed for such a system to prevent drivers from not disclosing violations when applying for a job, there will likely be some impacts. For one, there will be more costs and added administrative burden, and it could result in a slower hiring process. In addition, FMCSA has proposed to delay implementation for state CDL licensing agencies.

**2. Entry-Level Driver Training:** An entry-level driver training rule was also caught up in the administration change. It is slated to take effect in February 2020 and requires new training rules applicable to those applying for a CDL, CDL upgrades (from Class B to Class A, or instance) or for S/P/H endorsements.

Those seeking a CDL are required to obtain training from a certified provider in order to take a CDL skills test.

This rule also requires CDL training providers to register with the FMCSA's training provider registry (TPR). Training providers registered must deliver FMCSA's required curriculum. Osiecki said the likely impacts of this rule could include raising the "entry bar" for new drivers, which could affect the supply of drivers. The training is likely to be more expensive as well.

What's uncertain, he said, is whether the rule will result in a higher level of professionalism or improve safety. Among the items that have been proposed but may or may not come about are proposed changes to the HOS rules, changes to the Compliance, Safety, Accountability enforcement system, and an under-21 driver initiative.

**3. Hours of Service Rule Changes:** A proposed rulemaking on these changes was released in August and is now in step 2, of the process, Osiecki said, which would be notice of proposed rulemaking (NPRM). That would be followed by steps 3 and 4 – issuance of a final rule and then litigation. That means that for now, "it's just a proposal," he said.

Among the changes are adjustments to the 30-minute rest break rule, changes to the sleeper berth rule, a change to the 14-hour running clock rule that would allow it to pause, or stop, between 30 minutes and 3 hours for break time, a change in the short haul-driver exception to 150 air miles and 14 consecutive hours versus the current 100 air miles and 12 consecutive hours. Osiecki said that if that particular change goes through, it could allow more drivers to be exempt from the EDL rule. Also, among the changes is proposal to extend the 14-hour on-duty window by two hours due to adverse driving conditions.

Many of these changes could end up being part of the HOS rule, he said, but a few may not make the cut. As he noted, politics drives policy making and that is especially true with HOS rules as there are strong constituencies on both sides of these changes. He predicted a minimum of six months before a final rule would be issued.

**4. CSA Changes:** The CSA has been around for some time, Osiecki said, and has been plagued by problems from the beginning. An independent study in 2017 recommended wholesale changes with a new scoring model needed.

A revised model may have fewer BASICS, he said, and predicted that the industry probably would see a new CSA that focuses on violations that matter in terms of safety as opposed to those that don't, such as paperwork violations. While such violations could still result in a citation, they would be included in the CSA score, he predicted.

**5. Under-21 Driver Initiatives:** Osiecki said he does not see this as a near-term reality. There is a pilot program that allows 18- to 20-year-old drivers with military driving experience to obtain CDLs. He doubts Congress will act on a broader change, instead opting to let the FMCSA continue its pilot project.

He noted that "trucking has been down this road before" and he thinks it's been a dead-end. A better solution would be a graduated CDL that has limitations and restrictions, as those imposed in some states on auto drivers between 16 and 18 years old, with the limits gradually increased as the drivers gain experience.

<https://www.truckinginfo.com/340546/5-federal-trucking-regulatory-changes-in-the-works>