

FLETCHER & SIPPEL ALERT

ATTORNEYS AT LAW

29 NORTH WACKER DRIVE, SUITE 920, CHICAGO, ILLINOIS 60606-2832

Phone: (312) 252-1500 Fax: (312) 252-2400

www.fletcher-sippel.com

Wednesday, August 09, 2017

The Federal Motor Carrier Safety Administration and the Federal Railroad Administration withdraw proposed rule requiring operators to be tested for obstructive sleep apnea.

On August 8, 2017, two agencies in the Transportation Department -- the Federal Motor Carrier Safety Administration (FMCA) and Federal Railroad Administration (FRA) - (collectively the "Agencies") have withdrawn their proposed rule (published in March of 2016) that would have required truck drivers and train operators to be tested for obstructive sleep apnea (OSA), a sleep disorder that's been linked to preventable accidents.

In withdrawing [the proposed rule](#), the Agencies provided:

OSA remains an on-going concern for the Agencies and the motor carrier and railroad industries because it can cause unintended sleep episodes and resulting deficits in attention, concentration, situational awareness, and memory, thus reducing the capacity to safely respond to hazards when performing safety sensitive duties. The Agencies received valuable information in response to the ANPRM and a series of public listening sessions in May 2016. The Agencies believe that current safety programs and FRA's rulemaking addressing fatigue risk management are the appropriate avenues to address OSA.

The decision to withdraw the proposed rule was not taken well by the National Transportation Safety Board (NTSB), who for many years has pushed for sleep apnea screening and awareness. Citing the NTSB's own findings providing that OSA has been linked to 10 highway and rail accidents in the past 17 years, the board provided it was "disappointed."

In announcing the withdrawal of the proposal, the FMCSA recommended that commercial drivers and their employers consult the North American Fatigue Management Program to boost their awareness of fatigue and its impact on performance.

Please contact Chloé Pedersen at Fletcher & Sippel LLC (312) 252-1500 or by email at cpedersen@fletcher-sippel.com if you have questions.