

FMCSA Withdraws its Obstructive Sleep Apnea Rulemaking Proposal

The Federal Motor Carrier Safety Administration (FMCSA) and the Federal Railroad Administration (FRA) on August 4, 2017 announced the withdrawal of its March 10, 2016, advance notice of proposed rulemaking (ANPRM) concerning the evaluation of safety sensitive personnel for moderate-to-severe obstructive sleep apnea (OSA). The agencies “determined not to issue a notice of proposed rulemaking at this time and believe that current safety programs and FRA’s rulemaking addressing fatigue management are the appropriate avenues to address OSA.”

This is a victory for NSTA since it opposed the proposed rulemaking and a provision mandating its recession is included in Congressman Perry’s bill, BUSREGS-21.

The agencies also stressed that “OSA remains an ongoing 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.”

FMCSA emphasized that it “reminds medical examiners that there are no FMCSA rules or other regulatory guidance beyond” existing Medical Review Board recommendations that already “provide objective criteria for identifying drivers who may be at greater risk for OSA.”

FMCSA also stated that it will continue to recommend that drivers and their employers use the North American Fatigue Management Program, “a voluntary, fully interactive web-based educational and training program developed to provide both truck and bus commercial vehicle drivers and carriers and others in the supply chain with an awareness of the factors contributing to fatigue and its impact on performance.” The agency noted that Module 8 of the NAFMP program, Driver Sleep Disorders Management, includes an extensive discussion of OSA.