

# Amundsen Davis Transportation Alert: FMCSA Withdraws Proposed Sleep Apnea Rulemaking

## Labor & Employment Law Update

on August 8, 2017

The Federal Motor Carrier Safety Administration (FMCSA) and the Federal Railroad Administration (FRA) have withdrawn the proposed rulemaking aimed at identifying and treating obstructive sleep apnea in workers in safety sensitive positions. The withdrawal, **officially published on August 8, 2017**, states that both agencies believe the programs currently in place are the appropriate avenues to address the safety hazards presented by obstructive sleep apnea.

Although it will not be issuing additional rules regarding sleep apnea, the FMCSA will consider updating the January 2015 **"Bulletin to Medical Examiners and Training Organizations Regarding Obstructive Sleep Apnea."** That update would be based on the **August 2016 recommendations** of the FMCSA Medical Review Board, which proposed detailed, objective guidelines for the identification of drivers at risk for obstructive sleep apnea. Nonetheless, the FMCSA is no longer seeking to issue further regulations regarding drivers with sleep apnea.

Thus, for the time being, there is no change in the regulations relating to sleep apnea, and whether a driver is evaluated for sleep apnea is left in the discretion of the examiner. A driver may have "no established medical history or clinical diagnosis of a respiratory dysfunction likely to interfere with his/her ability to control and drive a commercial motor vehicle safely." The regulations currently instruct the examiner to refer a driver to a specialist for further evaluation and therapy if he or she detects a respiratory dysfunction likely to interfere with the driver's ability to safely control and drive a commercial motor vehicle.