



A bold voice for transportation workers

July 16, 2012

Mr. Lamar Allen
Alcohol and Drug Program Manager
Office of Safety Enforcement
Federal Railroad Administration
1200 New Jersey Avenue SE
Washington, DC 20590

**RE: Control of Alcohol and Drug Use: Addition of Post-Accident
Toxicological Testing for Non-Controlled Substances
Federal Railroad Administration
Docket No. FRA-2010-0155**

Dear Mr. Allen,

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am writing to express our opposition to and offer comments on the FRA's proposal to add commonly used, non-controlled prescription and over-the-counter medications to the agency's standard post-accident testing panel. We also want to take this opportunity to express our support for comments filed in this docket by several rail unions including TTD affiliates the American Train Dispatchers Association, the Brotherhood of Railroad Signalmen, and the United Transportation Union.

At the outset, we want to reiterate our support for current FRA regulations that are designed to ensure a drug- and alcohol-free railroad workplace. It is well recognized that impaired workers can pose a risk to themselves, their co-workers and the public. However, we strongly believe that any testing program must be implemented fairly and test in a manner that improves the safety and performance of the transportation systems. It is our belief that this Notice of Proposed Rulemaking (NPRM) will only serve to skew the results of critical post-accident investigations and place un-due suspicion and blame on workers who take legal and prescribed medications.

Specifically, the FRA proposes to add tramadol and sedating antihistamines to its standard post-accident testing panel. These are legal, non-controlled substances used to treat a number of common conditions and symptoms. While the FRA notes the possible side effects of these medications, it fails to sight the safety risks posed by the symptoms these medications are used to treat. The NPRM unfairly links potential side effects to safety concerns while ignoring equal risk of untreated conditions. The implementation of this rule may encourage rail employees to ignore the orders of their personal physicians and report to work without treating their conditions, posing an equal or greater risk to the safe operation of rail.

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Edward Wytkind, President / Larry I. Willis, Secretary-Treasurer



Additionally, the FRA is not taking into account the degree to which the effects of these medications vary among individuals. The risk of illegal, controlled substances, which the FRA currently tests for, is well established and the harmful effects are clear. However, a positive test result for tramadol or either prescription or over-the-counter antihistamines does not prove that an employee was impaired by the medication or in any way culpable for an accident. It would be unfair to test for these substances and release the results as this NPRM considers. To do so, would cast unfair suspicion on hard-working employees for simply following doctors' orders.

In its notice, the FRA cites two research projects that it initiated after releasing a Safety Advisor on this issue in 1998. While this research concluded that prescription medication and over-the-counter drug use is not uncommon among rail employees, it fails to establish a direct correlation between side effects of these medications and rail accidents. The evidence put forth in this NPRM does not justify such a significant and intrusive change in post-accident testing procedures.

TTD is committed to protecting the health and safety of the general public and rail workers affected by this proposed rule. Yet, the NPRM fails to adequately demonstrate that expanding the standard post-accident testing panel is warranted or that doing so would increase safety or reduce accidents. Therefore, we request that the FRA take no further action regarding this NPRM.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward Wytkind", with a stylized flourish at the end.

Edward Wytkind
President