



A bold voice for transportation workers

April 22, 2020

Patrice Kelly
Director
Office of Drug and Alcohol Policy & Compliance
Department of Transportation
1200 New Jersey Avenue, S.E.
Washington, DC 20590

Dear Ms. Kelly:

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I call on the Department of Transportation to take immediate action to eliminate risks of COVID-19 contagion from continued random drug and alcohol testing of essential transportation workers. TTD consists of 33 affiliate unions representing workers in all modes of transportation covered by DOT's drug and alcohol testing requirements, including those administered by FAA, FMCSA, FTA, FRA, PHMSA and USCG.¹

The ongoing COVID-19 crisis has resulted in 816,039 infections and 41,194 deaths, and most of the nation has been directed to stay home and reduce contact with other individuals.² However, employees in the transportation sector must still come to work, moving passengers and goods across the country. Our members ensure that other essential employees can get to work, and that medical supplies, food and other critical products can get where they are needed. Given the severe and disproportionate impact of COVID-19 on these employees, it is of paramount importance—and in the shared interest of TTD unions, the Department of Transportation, and the United States at large—that every action is taken to protect this workforce from the effects of COVID-19.

Therefore, we request that DOT suspend random drug and alcohol testing for a period of at least 90 days to reduce the risk of COVID-19 exposure. While TTD understands DOT's statutory mandate to combat drug and alcohol abuse among safety sensitive personnel, we believe that the risks posed by continuing to expose essential workers—who are already at a heightened risk of

¹ Attached is a list of TTD's 33 affiliated unions.

² Coronavirus in the U.S.: Latest Map and Case Count, The New York Times, Updated as of April 22, 2020, 2:55 P.M. E.T.

Transportation Trades Department, AFL-CIO

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Larry I. Willis, President / Greg Regan, Secretary-Treasurer

contracting COVID-19 due to the nature of their jobs—outweighs the safety benefits of continuing random testing during this pandemic. To this point, TTD strongly supports the request filed by the Air Line Pilots Association (ALPA).

As described in ALPA’s April 21, 2020 letter, drug and alcohol testing procedures across modal agencies are not designed to accommodate the unique risks presented by a deadly global pandemic. For example, breath testing, conducted via an evidential breath testing device (EBT), presents numerous opportunities for the transmission of COVID-19, particularly because the regulations do not prescribe adequate prophylactic requirements for either the device or the technician administering the device. While we understand that manufactures are contemplating guidance for the “safe” use of their equipment, this is not an acceptable replacement for thoughtful and preemptive regulation, developed with scientific consensus and subject to review.

Similarly, existing procedures for urine specimen collection also invite contagion risk, requiring employees to interact closely with specimen collectors who themselves have been in contact with numerous individuals. It is well within the realm of possibility that a COVID-19 positive collector, who may be asymptomatic and unaware, could unwittingly serve as a nexus of infection throughout a workforce.

For both EBT and urine sample testing, some employees are required to travel to clinics or similar facilities to provide samples, introducing risks from their travel, from testing itself, from medical personnel present at a facility, as well as from other individuals being tested or who are patients at the medical facility. Given the presence of these risks, the potentially lethal consequences of contracting COVID-19, and the negative impacts of the virus continuing to spread among transportation workers, it is incumbent on DOT to eliminate these risks by suspending testing.

To date, DOT and its modal agencies have failed to take substantive action, with respect to drug and alcohol testing, that is essential to protect the transportation workforce. DOT’s March 23rd guidance made clear that the Department will continue to mandate testing. FAA has released its own guidance, and suggested that employees rely on regulatory flexibility provided to employers to delay testing if necessitated by COVID-19. The FRA has discussed this at length in its denial of a request from rail management organizations to waive testing filed within FRA’s Emergency Relief Docket.³ Similarly to the FAA guidance, FRA states that its existing regulations at 49 CFR §219.615 and §219.613 provide employers the necessary flexibility to delay testing for COVID-19 purposes while complying with other existing regulation.

Unfortunately, merely providing for the possibility of the temporary delay of some tests, and leaving this choice in the hands of employers is inadequate given the exponential spread of COVID-19. As we see increasing incidence and deaths among the frontline transportation workforce, it is clear that DOT must take decisive action to reduce exposure and protect these employees. While TTD and our affiliates continue to make requests of modal agencies on a variety of related topics, DOT today has the authority to address the present danger inherent in random testing.

³ FRA’s 3.30.2020 Response to AAR-ASLRRA-APTA Joint Alcohol and Drug Testing Waiver Request

For this reason, we call on DOT to suspend random testing for all covered employees for a period of no less than 90 days. We look forward to continuing to work with the agency on efforts to reduce the prevalence of COVID-19 infection amongst the frontline transportation workforce.

Sincerely,

A handwritten signature in black ink that reads "Larry Willis". The signature is written in a cursive, flowing style.

Larry I. Willis
President



Transportation Trades Department, AFL-CIO
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TTD MEMBER UNIONS

Air Line Pilots Association (ALPA)
Amalgamated Transit Union (ATU)
American Federation of Government Employees (AFGE)
American Federation of State, County and Municipal Employees (AFSCME)
American Federation of Teachers (AFT)
Association of Flight Attendants-CWA (AFA-CWA)
American Train Dispatchers Association (ATDA)
Brotherhood of Railroad Signalmen (BRS)
Communications Workers of America (CWA)
International Association of Fire Fighters (IAFF)
International Association of Machinists and Aerospace Workers (IAM)
International Brotherhood of Boilermakers, Iron Ship Builders,
Blacksmiths, Forgers and Helpers (IBB)
International Brotherhood of Electrical Workers (IBEW)
International Longshoremen's Association (ILA)
International Organization of Masters, Mates & Pilots (MM&P)
International Union of Operating Engineers (IUOE)
Laborers' International Union of North America (LIUNA)
Marine Engineers' Beneficial Association (MEBA)
National Air Traffic Controllers Association (NATCA)
National Association of Letter Carriers (NALC)
National Conference of Firemen and Oilers, SEIU (NCFO, SEIU)
National Federation of Public and Private Employees (NFOPAPE)
Office and Professional Employees International Union (OPEIU)
Professional Aviation Safety Specialists (PASS)
Sailors' Union of the Pacific (SUP)
Sheet Metal, Air, Rail and Transportation Workers (SMART)
SMART-Transportation Division
Transportation Communications Union/ IAM (TCU)
Transport Workers Union of America (TWU)
UNITE HERE!
United Automobile, Aerospace and Agricultural Implement Workers of America (UAW)
United Mine Workers of America (UMWA)
United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service
Workers International Union (USW)

These 33 labor organizations are members of and represented by the TTD

