



AMTRAK | Office of
Inspector General
www.amtrakoig.gov

RAILROAD SAFETY:

Amtrak is Not Adequately Addressing Rising Drug and Alcohol Use by Employees in Safety-Sensitive Positions


Report No. OIG-E-2012-023 | September 27, 2012





Memorandum

To: Joseph H. Boardman, President & CEO

From: Ted Alves 

Date: September 27, 2012

Subject: *Railroad Safety: Amtrak is Not Adequately Addressing Rising Drug and Alcohol Use by Employees in Safety-Sensitive Positions* (Report No. OIG-E-2012-023)

In January 1987, in Chase, Maryland, a Conrail engineer ran three signals, causing a collision with an Amtrak train, killing 16 people and injuring 147. The subsequent investigation determined that the engineer was under the influence of marijuana. Following this accident, a federal regulation¹ was put into place requiring railroads, including Amtrak, to maintain a program to control the use of drugs and alcohol by hours-of-service (HOS)² employees in safety-sensitive positions. Federal Railroad Administration (FRA) guidance implementing this regulation requires Amtrak to randomly test at least 25 percent of its HOS employees for drugs and at least 10 percent for alcohol each year. Amtrak must also physically observe each employee for signs and symptoms of drug and alcohol use once every 3 months, on average. Amtrak has over 4,400 HOS employees, including locomotive engineers, conductors, and train dispatchers, and also some employees who maintain signals equipment (signals employees) and some employees who operate locomotives within the mechanical yard or maintain locomotive cab signal equipment (mechanical employees). Amtrak estimates that it plans to spend about \$1.5 million in FY 2012 administering its drug and alcohol (D&A) program.

¹ 49 CFR Part 219, as amended.

² Hours-of-service employees must have at least 10 hours off duty between working shifts, pursuant to the Rail Safety Improvement Act of 1988 (P.L. 100-342), because they often work in safety-sensitive positions.

*Amtrak Office of Inspector General***Railroad Safety: Amtrak is Not Adequately Addressing Rising Drug and Alcohol Use by Employees in Safety-Sensitive Positions**

Report No. OIG-E-2012-023, September 27, 2012

FRA requires Amtrak, as part of administering its D&A program, to exercise “due diligence” to ensure that its HOS employees are not using illegal drugs, using controlled substances without a prescription, or using alcohol while on duty or for 8 hours prior to duty.³ FRA guidance implementing these regulations states that Amtrak “must make every effort” to ensure that its personnel are complying with the regulations and “may not overlook potential violations through its own negligent actions (or failure to act).” In addition, Amtrak has a responsibility “to continually improve its ability to detect and deter covered service personnel from misusing drugs or alcohol,” and its practices and programs “may not offer an opportunity for covered personnel to avoid detection because of carelessness, indifference, or inattentive performance.”

Amtrak is one of 38 large railroads that are required to have a drug and alcohol program and report the results of their data to FRA. As part of its regulatory oversight, FRA periodically reviews and reports on Amtrak’s program. An FRA official involved with this oversight stated that Amtrak’s D&A Program Office has made substantial improvements in the administration of its program over the last decade. Since 2006 FRA has repeatedly commended the program office on its administration of drug and alcohol testing and other aspects of the program that it controls. In a 2012 report, FRA stated that Amtrak’s D&A program is well organized thanks to capable managers and staff in the program office and that these managers are totally committed to and invested in this critical safety program.⁴ According to the D&A Program Manager, the program was moved from Amtrak’s Human Resources Department to the Environmental Health and Safety office in October 2011.

We initiated this evaluation to determine whether Amtrak is ensuring that its HOS employees are complying with federal regulations governing the use of drugs and alcohol. Specifically, we evaluated (1) the extent to which Amtrak’s random testing shows that HOS employees are using drugs and alcohol, and (2) whether Amtrak is exercising due diligence in controlling the use of drugs and alcohol by these employees. For a detailed discussion of our evaluation methodology, see Appendix I.

³ See 49 CFR Part 219, as amended, for a full list of prohibitions. Whereas the regulation prohibits HOS employees from using alcohol 4 hours prior to duty, Amtrak’s Drug and Alcohol policy (7.3.0, November 30, 2004) prohibits alcohol use for 8 hours prior to duty.

⁴ Nonetheless, FRA did express concern in this report with Amtrak’s compliance in areas beyond the program office’s control.

Railroad Safety: Amtrak is Not Adequately Addressing Rising Drug and Alcohol Use by Employees in Safety-Sensitive Positions

Report No. OIG-E-2012-023, September 27, 2012

SUMMARY OF RESULTS

Amtrak's HOS employees are testing positive for drugs and alcohol more frequently than their peers in the railroad industry. Our analysis of Amtrak's random drug and alcohol test results shows that these employees have been testing positive for drugs and alcohol at a rate that has been generally trending upward since 2006, and this rate has exceeded the industry average for the past 5 years. The majority of Amtrak's positive tests since 2006 were for drugs, primarily cocaine and marijuana. In 2011, Amtrak had 17 positive tests for drugs or alcohol, which resulted in a combined positive test rate that was about 51 percent above the industry average, its worst rate since 2007. The 2011 rate was driven by a relatively large number of positive tests by signals and mechanical employees that were both over four times the rate of their peers in the industry. Based on the random test data, we calculated, with 95-percent confidence, that if all 4,454 HOS employees had been tested in 2011, between 21 and 65 of these employees would have tested positive for drug use, with a best estimate of 43 employees. We also calculated that between 4 and 32 of Amtrak's HOS employees would have tested positive for alcohol use, with a best estimate of 18 employees.

Amtrak is not exercising due diligence to control the use of drugs and alcohol by these employees. Until we presented Amtrak's key senior management with our preliminary results, they were unaware of the extent of drug and alcohol use by these employees. Further, senior management is not actively engaged in the program, nor have they demonstrated that controlling drugs and alcohol is a clear priority at Amtrak, thereby making it difficult to manage the risk that drug and alcohol use poses to its employees, passengers, and the public. Amtrak also did not adequately address, for several years, FRA's concerns about Amtrak's program to physically observe HOS employees for signs and symptoms of drug and alcohol use. Consequently, FRA has stated that it may elevate enforcement actions against Amtrak up to and including fining Amtrak in the future if the number of observations is not improved. This may become more challenging because the number of HOS employees requiring observation may increase by 2,260 in 2013 due to potential changes in the regulation.

Drug and alcohol misuse by Amtrak's HOS employees poses a potential threat to employee, passenger, and public safety. The federal regulation was established to address drug and alcohol use by railroad employees in safety-sensitive positions in an attempt to limit accidents and improve public safety. However, Amtrak is not complying with the due diligence requirement of this regulation. In particular,

*Amtrak Office of Inspector General***Railroad Safety: Amtrak is Not Adequately Addressing Rising Drug and Alcohol Use
by Employees in Safety-Sensitive Positions**

Report No. OIG-E-2012-023, September 27, 2012

Amtrak's current senior management's lack of knowledge about the extent of drug and alcohol use, the lack of engagement in the program, and the limited response to FRA's concerns about its physical observations raise serious questions about Amtrak's commitment to controlling drug and alcohol use. These conditions increase the risk that a serious accident will occur that involves drugs or alcohol. The fact that this risk is not yet integrated into an enterprise-wide risk management framework increases the likelihood that it will not be adequately addressed.

To manage the risks associated with its increasing rate of drug and alcohol use and to meet the federal requirement for exercising due diligence, we are making five specific recommendations. We recommend that Amtrak increase the rate at which it randomly tests its HOS employees, routinely review testing data, demonstrate that senior management is engaged in the D&A program, ensure that the physical observation program meets or exceeds FRA's program guidance, and ensure that its HOS supervisors are adequately trained in identifying signs and symptoms of drug and alcohol use and that their training is properly recorded.

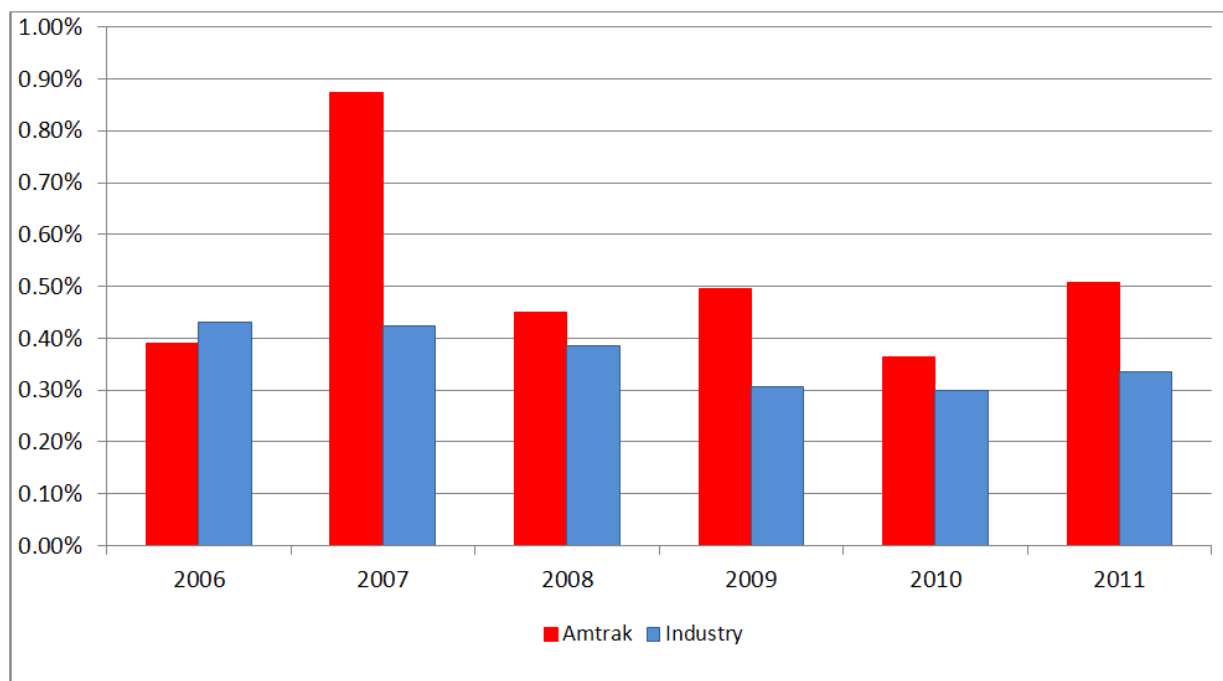
Amtrak's President and CEO provided us with comments on a draft of this report on September 24, 2012, wherein he concurred with all of our recommendations and established time frames in which Amtrak will implement the recommendations (see Appendix II). We consider his comments responsive to our recommendations and will follow up on their implementation.

Amtrak Office of Inspector General
**Railroad Safety: Amtrak is Not Adequately Addressing Rising Drug and Alcohol Use
 by Employees in Safety-Sensitive Positions**
 Report No. OIG-E-2012-023, September 27, 2012

AMTRAK EMPLOYEES ARE USING DRUGS AND ALCOHOL AT RATES HIGHER THAN THE INDUSTRY AVERAGE

Amtrak's HOS employees test positive for drugs and alcohol (combined) more often than their peers in the railroad industry. While the industry rate of random positive tests for drugs and alcohol has generally trended downward since 2006, Amtrak's rate has generally trended upward.⁵ As shown in Figure 1, Amtrak's combined rate of positive tests for drugs and alcohol from 2006 through 2011 averages about 1.4 times that of the industry. This includes 92 positive tests for drugs and alcohol out of 17,831 tests administered during this period. The majority of the positive test results (67 percent) were for illegal drugs, primarily cocaine and marijuana, rather than alcohol.⁶

**Figure 1. Positive Rate for Random Drug and Alcohol Tests of
 HOS Employees, 2006–2011**



Source: OIG analysis of 2006-2011 Amtrak and FRA data

⁵ According to an FRA official, a positive test means only that the employee has used a prohibited substance within a certain period of time, not necessarily that he or she was impaired at the time of testing.

⁶ Amtrak tests for marijuana, opiates such as heroin and codeine, stimulants such as cocaine and amphetamines, and the hallucinogen known as PCP.

Amtrak Office of Inspector General
**Railroad Safety: Amtrak is Not Adequately Addressing Rising Drug and Alcohol Use
by Employees in Safety-Sensitive Positions**
Report No. OIG-E-2012-023, September 27, 2012

Some of the positive tests were from HOS employees who had previously tested positive. Amtrak's policy guidelines state that employees who test positive for drugs and alcohol a second time within 10 years of active service—after seeking treatment through Amtrak's Employee Assistance Program—will be removed from service and are subject to dismissal. We identified six employees who, between 2006 and 2011, tested positive a second time, all testing positive for drugs, in the 10-year window. These individuals are no longer employed by Amtrak; one was terminated, four resigned, and one retired.

According to an FRA official, one of the reasons the industry's positive test rate has decreased over the last several years is that many of the other railroads FRA oversees are testing a higher percentage of their HOS employees than required. Also, according to Amtrak's D&A Program Office, several large freight railroads are testing 50 percent of their HOS employees, and have been for years. The increased testing rate deters the misuse of drugs and alcohol because, according to an FRA official, the HOS employees perceive that there is a greater likelihood that they will be caught. In comparison, Amtrak's average testing rate between 2006 and 2011 was 33 percent for drugs and 39 percent for alcohol. This is still above the FRA minimums, but below the testing rates of some of the other large railroads.

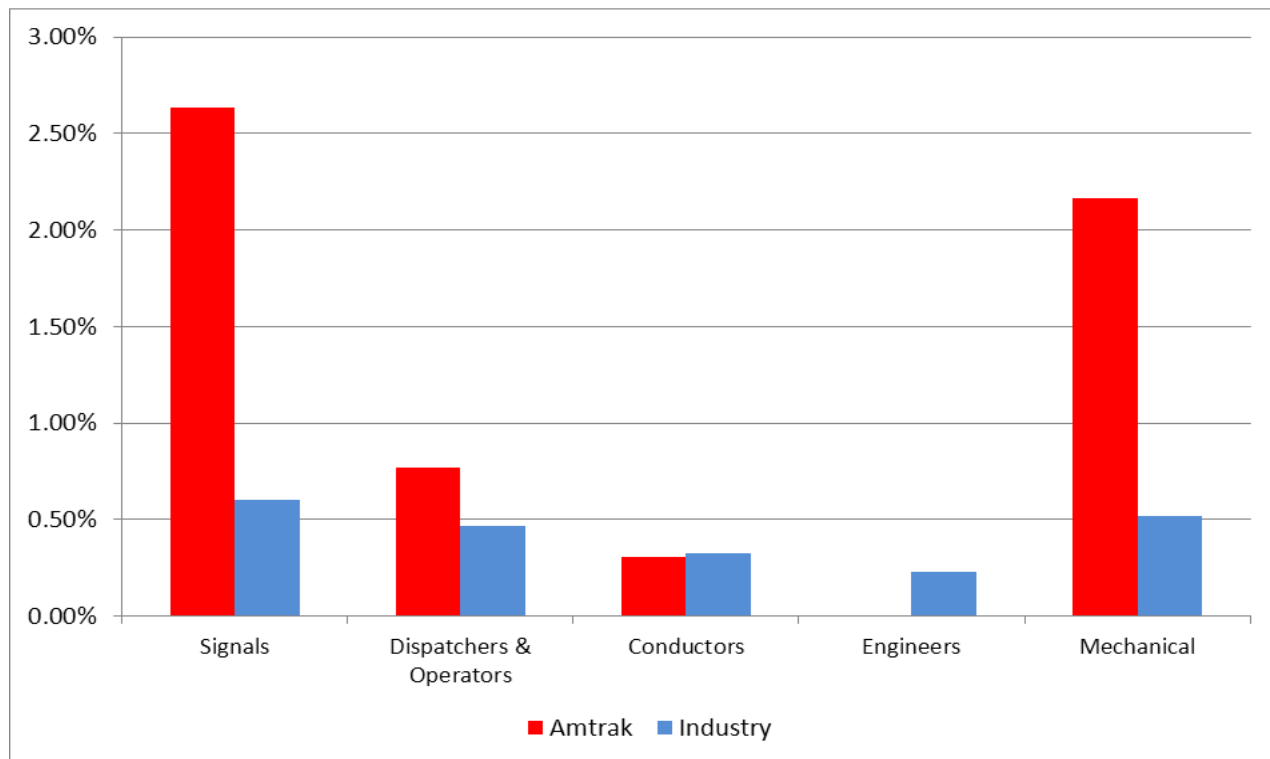
In 2011 Amtrak's combined random positive test rate was its worst since 2007, at 51 percent above the industry average.⁷ Positive drug tests accounted for 12 of Amtrak's 17 positive tests. Based on Amtrak's random test data, we calculated, with 95-percent confidence, that if all 4,454 HOS employees had been tested, between 21 and 65 of these employees would have tested positive for drug use, with a best estimate of 43 employees. We also calculated, with 95-percent confidence, that if all HOS employees had been tested in 2011, between 4 and 32 of these employees would have tested positive for alcohol use, with a best estimate of 18 employees. None of Amtrak's locomotive engineers tested positive in 2011 but, as shown in Figure 2, signals and

⁷ When looked at separately, Amtrak's rate of drug use was over twice the industry average, but alcohol use was 12 percent lower than the industry average for 2011. In addition to comparing Amtrak with the overall industry rate, we attempted to identify Amtrak's rank among the 38 railroads that FRA oversees, but FRA would not release this third-party information. However, based on available industry-wide information, we estimate that if Amtrak's rate of positive tests for drug and alcohol use in 2011 was equal to the industry average, 18 HOS employees would have tested positive for drugs and 14 would have tested positive for alcohol.

Amtrak Office of Inspector General
**Railroad Safety: Amtrak is Not Adequately Addressing Rising Drug and Alcohol Use
 by Employees in Safety-Sensitive Positions**
 Report No. OIG-E-2012-023, September 27, 2012

mechanical employees drove up Amtrak's positive tests, with these employee groups both testing positive over four times more frequently than their peers in the industry.⁸

**Figure 2. Positive Rate for Random Drug and Alcohol Tests
 in 2011, by Employee Group**



Source: OIG analysis of 2011 Amtrak and FRA data

⁸ The 17 positive tests in 2011 breaks out as follows: six positive tests from signals employees, five from conductors, four from mechanical employees, and two from dispatchers.

Amtrak Office of Inspector General
**Railroad Safety: Amtrak is Not Adequately Addressing Rising Drug and Alcohol Use
by Employees in Safety-Sensitive Positions**
Report No. OIG-E-2012-023, September 27, 2012

AMTRAK IS NOT EXERCISING DUE DILIGENCE TO CONTROL DRUG AND ALCOHOL USE

Amtrak is not exercising due diligence in order to control the use of drugs and alcohol by HOS employees in safety-sensitive positions. Until we presented Amtrak's senior management with our preliminary results, they were unaware of the extent of drug and alcohol use by these employees. Further, senior management is not actively engaged in the program, nor have they demonstrated that controlling drugs and alcohol is a clear priority at Amtrak. Likewise, Amtrak did not adequately address FRA's concerns about its physical observation program.

Senior Management Was Unaware of Drug and Alcohol Use by Employees

None of Amtrak's current senior managers who we interviewed were aware that HOS employees were testing positive at a rate higher than that of industry, before we presented them with the results of our evaluation. While we confirmed that senior managers and Amtrak's Board of Directors had received information on drug and alcohol use in 2000, several current key senior executives and three superintendent-level field personnel stated that they had not seen information on drug and alcohol use for several years, potentially since 2003. However, all stated that it would be useful to know the extent of drug and alcohol use by HOS employees.

It is unclear why current senior management has not proactively sought this information, given that it is readily available from several sources. For example, the D&A Program Office keeps records and provides drug and alcohol testing information to FRA on an annual basis. Also, according to officials in the program office, they have offered to discuss this information with senior management on several occasions, and most recently met with the then-Vice President of Operations in 2011.⁹ In addition to getting information directly from the program office, information on drug and alcohol

⁹ The D&A Program Office also attempted to meet with the then-Vice President of Operations and the then-head of Human Resources in 2010, but this meeting was canceled and not rescheduled. D&A program officials stated that their office has only a limited capability to analyze and compare Amtrak and industry data in order to present it in a compelling way. This may have limited management's interest in holding the meeting; however, we were unable to confirm this, as both officials have left Amtrak.

Amtrak Office of Inspector General
**Railroad Safety: Amtrak is Not Adequately Addressing Rising Drug and Alcohol Use
by Employees in Safety-Sensitive Positions**
Report No. OIG-E-2012-023, September 27, 2012

use by HOS employees is included in FRA's compliance reports on Amtrak's D&A program, which are addressed to the President of Amtrak.

Additionally, to get an indication of the extent of drug and alcohol use by HOS employees, Amtrak management could have obtained trend data from Operation RedBlock. This program promotes awareness and education of drug and alcohol use in the workplace through peer volunteer prevention committees. RedBlock allows these employees to excuse themselves from work by "marking off" if they believe they are impaired due to drug and/or alcohol use. We previously recommended—in both our 2008 and 2011 reports¹⁰—that Amtrak develop and distribute reports on the extent of mark-offs as a means of gauging drug and alcohol use and an indicator of where to focus education and referral efforts.

Amtrak management responded to both of our reports by stating that they would have these Redblock mark-off reports developed. Amtrak has worked diligently to reach agreement with labor union officials and recently restructured the program. However, very little information on RedBlock mark-offs has been provided to date in a manner that would help senior management understand the extent of drug and alcohol use. For example, locomotive engineers averaged only one positive test per year from 2006 through 2011, but, as FRA stated in its 2012 compliance report, engineers marked off 18 times from 2007 through 2009. This information is critical to Amtrak's full understanding of the extent of drug and alcohol use by its HOS employees because it provides information that would not be captured through random drug and alcohol testing.

Senior Management is Not Actively Engaged in Controlling Drug and Alcohol Use

Senior management is not actively engaged in the program, nor have these managers made controlling drugs and alcohol a clear priority at Amtrak. Amtrak's *Strategic Plan for Fiscal Years 2011–2016*, for example, does not mention anything about controlling drug and alcohol use, despite safety being Amtrak's primary goal and despite the plan's including metrics on train accidents, passenger injuries, and employee safety—all areas

¹⁰ *Operation RedBlock: Actions Needed to Improve Program Effectiveness* (Report No. E-11-01, March 15, 2011) and *Operation RedBlock* (Report No. E-08-01, March 4, 2008).

*Amtrak Office of Inspector General***Railroad Safety: Amtrak is Not Adequately Addressing Rising Drug and Alcohol Use by Employees in Safety-Sensitive Positions**

Report No. OIG-E-2012-023, September 27, 2012

that drug and alcohol use could affect. Similarly, Amtrak has not emphasized controlling drugs and alcohol as part of the safety initiatives discussed in its *Five-Year Financial Plan*. Further, we could find no evidence that drug and alcohol control was a topic even discussed at length at any meetings of the Board of Directors or Amtrak's Executive Committee for many years, nor did anyone we interviewed provide any examples of senior management's active engagement with the program.

We recently recommended¹¹ that Amtrak adopt an enterprise risk management framework to identify, assess, mitigate, and monitor significant organizational risks. Although we did not identify any Amtrak HOS employees who tested positive for drug and alcohol use in connection with any accidents between 2007 and 2011, our review of Amtrak's data shows that the possibility of drug and alcohol use being involved in an accident is legitimate, as nine employees tested positive for drugs during this period after rules violations such as failing to stop, speeding, or not properly securing equipment. Without integrating this risk into an enterprise risk management framework, Amtrak may have difficulty managing the risk that drug and alcohol use poses to its employees, passengers, and the public.

Physical Observations Do Not Meet FRA Requirements

Amtrak's physical observation program for identifying signs and symptoms of drug and alcohol use has not met FRA guidance for many years. As part of exercising due diligence, Amtrak supervisors should physically observe HOS employees at a rate of four times per year for signs and symptoms of being under the influence of drugs or alcohol. To accomplish this, Amtrak needs to document approximately 17,000 physical observations every year in its Total Efficiency Safety Test System.¹² Although Amtrak has steadily improved its number of observations since a low of 6,434 in 2007, it has never met FRA's guidance, having recorded only approximately 15,200 observations in 2011.

¹¹ Management responded that it needed to better understand the commitment required before it implemented an enterprise risk management system. See *Amtrak Corporate Governance: Implementing a Risk Management Framework is Essential to Achieving Amtrak's Strategic Goals* (OIG-A-2012-007, March 30, 2012).

¹² This system is used to record all operational tests and inspections of HOS employees, including those performed to detect signs and symptoms of drug and alcohol use.

Amtrak Office of Inspector General
**Railroad Safety: Amtrak is Not Adequately Addressing Rising Drug and Alcohol Use
by Employees in Safety-Sensitive Positions**
Report No. OIG-E-2012-023, September 27, 2012

In order to better understand why these supervisors are not documenting enough observations, we visited five of Amtrak's HOS crew bases (Boston, Chicago, Los Angeles, Philadelphia, and Washington, D.C.) in four of Amtrak's seven divisions. We met with 41 of an estimated 240 first-line supervisors of HOS employees in Amtrak's operating departments. We determined that several factors contribute to Amtrak's not meeting the required number of annual physical observations, including the following:

- Some supervisors apparently were not aware of Amtrak's requirement to conduct physical observations. This included five supervisors (two in the Transportation Department, two in the Mechanical Department, and one in the Engineering Department) who did not conduct any drug and alcohol observations.
- Amtrak's guidance on the frequency of observations per year does not meet the FRA requirement. Amtrak's guidance issued November 7, 2011, states that HOS supervisors must physically observe HOS employees once per year rather than once per quarter, as required by FRA. Of the supervisors we interviewed, 28 of the 41 said they were aware of and complying with Amtrak's requirements.
- Amtrak's Total Efficiency Safety Test System is difficult and time-consuming to use. After conducting an observation, supervisors are required to return to their computers and enter into the system the results of the observation and other pertinent information about the employee. We were told by the senior analyst who oversees the system that it takes a knowledgeable supervisor about 3 minutes to record a physical observation into the system. One of the long-time Amtrak supervisors we interviewed said that the Amtrak system now requires more time than it did 10 years ago, and reflected the feelings of several supervisors we interviewed in saying that Amtrak's system is "horribly cumbersome." In addition, two of the supervisors we interviewed previously worked at other large railroads, and stated that entering observations into the Amtrak system took between 4 and 10 times longer than at the other railroads where they had worked.¹³

In addition to not meeting the required number of observations, some supervisors have not received recent training on conducting physical observations. FRA requires that

¹³ This issue extends beyond physical observations for drugs and alcohol to all required observations of HOS employees. For example, Amtrak conducted 309,137 total observations in 2011, while one of the large freight railroads conducted more than 5 million.

*Amtrak Office of Inspector General***Railroad Safety: Amtrak is Not Adequately Addressing Rising Drug and Alcohol Use by Employees in Safety-Sensitive Positions**

Report No. OIG-E-2012-023, September 27, 2012

each supervisor receive training on how to identify signs and symptoms of drug and alcohol use, and, according to the D&A Program Office, Amtrak requires them to receive refresher training every 3 years. Out of the 41 supervisors we interviewed, two did not have any recollection or documentation of having attended initial training, and only 12 of the 22 supervisors who required refresher training had received it. Of the 12 who had, only two had documentation in Amtrak's Human Resources Information System to support that they had received refresher training. According to Amtrak's D&A Program Office, it is this office's responsibility to ensure that documentation of training is recorded in the system, and it needs to improve in this area. However, the office also stated that improvements to the system, such as automatic reminders of when supervisors need training, would make it easier to ensure that supervisors get the training they need.

The lack of training could also increase Amtrak's risk that drug and alcohol use will go undetected. According to the D&A Program Office, physical observations should be one of Amtrak's primary methods of detecting and deterring drug and alcohol use because it involves a daily face-to-face observation of HOS employees who may be under the influence. These observations should lead to FRA-required "reasonable suspicion tests" when supervisors observe these employees displaying signs and symptoms of drug and alcohol use. The lack of training and the potential poor quality of some of the observations resulting from limited training likely contribute to Amtrak's HOS supervisors' rate of reasonable suspicion testing being well below the industry average. In 2011, Amtrak conducted only four reasonable suspicion tests of its 4,454 HOS employees for drugs (.09 percent) and six reasonable suspicion tests for alcohol (.13 percent), compared with rates of about 3 percent and 2.5 percent, respectively, across the industry.

The lack of physical observations is also increasing Amtrak's financial exposure. FRA has repeatedly cited Amtrak in its compliance reports for its deficiencies in the number of physical observations. In its March 2012 report, FRA stated that Amtrak's number of observations could be interpreted as Amtrak's being unconvinced that its HOS supervisors need to improve the number of observations conducted. FRA further stated that it may elevate enforcement actions against Amtrak up to and including fining Amtrak if it does not meet the required number of annual physical observations in the future. Meeting FRA requirements may become even more difficult as Amtrak may need to observe an additional estimated 2,260 Maintenance of Way employees next year due to potential changes to the federal regulation governing Amtrak's D&A program.

Amtrak Office of Inspector General
**Railroad Safety: Amtrak is Not Adequately Addressing Rising Drug and Alcohol Use
by Employees in Safety-Sensitive Positions**
Report No. OIG-E-2012-023, September 27, 2012

This potential change could expand the pool of HOS employees requiring physical observation by about 50 percent, with a group of employees that historically has had issues with drug and alcohol use, according to FRA and Amtrak officials.

CONCLUSIONS

Drug and alcohol misuse by Amtrak's HOS employees poses a potential threat to employee, passenger, and public safety. The federal regulation was established to address drug and alcohol use by railroad employees in safety-sensitive positions in an attempt to limit accidents and improve public safety. However, Amtrak is not complying with the due diligence requirement in the regulation. In particular, Amtrak's current senior management's lack of knowledge about the extent of drug and alcohol use, the lack of engagement in the program, and the limited response to FRA's concerns about its physical observations program raise serious questions about Amtrak's commitment to controlling drug and alcohol use. These conditions increase the risk that a serious accident will occur that involves drugs or alcohol. The fact that this risk is not yet integrated into an enterprise-wide risk management framework increases the likelihood that it will not be adequately addressed.

RECOMMENDATIONS

To address its increasing rate of drug and alcohol use and to meet the federal requirement for exercising due diligence, we recommend that Amtrak's President and Chief Executive Office direct the Vice President, Operations, and the Vice President, Environmental Health and Safety, to work together to:

1. Increase the annual percentage of random drug and alcohol tests to improve Amtrak's ability to detect and deter drug and alcohol use.
2. Routinely review the results of drug and alcohol testing, comparing them against company goals and industry averages.
3. Demonstrate that drug and alcohol control is a priority at Amtrak through the engagement of senior management with the program, and incorporate the risks associated with drug and alcohol use into a risk management framework.

*Amtrak Office of Inspector General***Railroad Safety: Amtrak is Not Adequately Addressing Rising Drug and Alcohol Use by Employees in Safety-Sensitive Positions**

Report No. OIG-E-2012-023, September 27, 2012

4. Ensure that the physical observation program meets or exceeds FRA's guidance, to include
 - a. revising Amtrak's guidance on the frequency of conducting observations to meet or exceed FRA guidance, and ensuring that all HOS supervisors are advised of this change,
 - b. holding supervisors accountable for performing the required number of observations each quarter,
 - c. improving the efficiency of the process and/or system used to record the physical observations, and
 - d. routinely reporting on the number of observations recorded against company goals and FRA guidance.
5. Ensure that HOS supervisors are properly trained in identifying signs and symptoms of drug and alcohol use and that their training is properly documented.

MANAGEMENT COMMENTS AND OIG ANALYSIS

Amtrak's President and CEO provided us with comments on a draft of this report on September 24, 2012, wherein he concurred with all of our recommendations and established time frames in which Amtrak will implement the recommendations (see Appendix II). We consider his comments responsive to our recommendations and will follow up on their implementation.

- - -

Thank you for your cooperation during the course of this evaluation. We appreciate the courtesies and cooperation that Amtrak representatives extended to us during the course of this review. If you have any questions, please contact me (Ted.Alves@amtrakoig.com, 202.906.4600) or Cal Evans, Assistant Inspector General for Inspections and Evaluations (Calvin.Evans@amtrakoig.gov, 202.906.4507).

*Amtrak Office of Inspector General***Railroad Safety: Amtrak is Not Adequately Addressing Rising Drug and Alcohol Use
by Employees in Safety-Sensitive Positions**

Report No. OIG-E-2012-023, September 27, 2012

cc: Donald A. Stadtler, Jr., Vice President, Operations
Roy Deitchman, Vice President, Environmental Health and Safety
Eleanor D. Acheson, Vice President, General Counsel and Corporate Secretary
Barry Melnkovic, Chief Human Capital Officer
Jason Molfetas, Chief Information Officer
Mario Bergeron, Chief Mechanical Officer
Frank A. Vacca, Chief Engineer
Malva D. Reid, Senior Director, Health Services
Deborah Jowers, Manager, Drug and Alcohol Program
Jessica Scritchfield, Senior Director, Internal Controls/Audit

Amtrak Office of Inspector General
**Railroad Safety: Amtrak is Not Adequately Addressing Rising Drug and Alcohol Use
by Employees in Safety-Sensitive Positions**
Report No. OIG-E-2012-023, September 27, 2012

Appendix I

SCOPE AND METHODOLOGY

This report provides the results of our evaluation of Amtrak's drug and alcohol program. We initiated this evaluation to determine whether Amtrak is ensuring that its hours-of-service (HOS) employees are complying with federal regulations governing the use of drugs and alcohol. Specifically, we evaluated (1) the extent to which Amtrak's random testing shows that HOS employees are using drugs and alcohol, and (2) whether Amtrak is exercising due diligence in controlling the use of drugs and alcohol by these employees. We performed our work from March through September 2012.

To evaluate the extent to which Amtrak's HOS employees are using drugs and alcohol, we reviewed FRA and Amtrak policies and procedure manuals and interviewed officials from Amtrak's D&A Program Office in order to understand how HOS employees are randomly tested for drugs and alcohol. We then obtained and analyzed drug and alcohol testing data that Amtrak provided to FRA for 2006 through 2011, and completed a 6-year trend analysis on Amtrak's drug and alcohol use. We also obtained data on the railroad industry for the same period and compared it with Amtrak's test results. We discussed the results of our analysis with the manager of Amtrak's D&A program, along with other senior managers responsible for the program.

In statistically projecting the results for 2011, we assumed that Amtrak's D&A testing was, in fact, random, and we did not review Amtrak's testing procedures. We believed this was appropriate based on FRA's periodic reviews and oversight of Amtrak's testing procedures, including approval of Amtrak's random testing plan. We reviewed the results of the tests, which were stratified by the five employee categories, and developed a weighted average that each employee category represented to the total population. Factoring this by the number of employees in each stratum provided the "best estimate" results. We then projected the results over the HOS employee population at a 95-percent confidence level to identify the potential number of employees who could test positive for drug and alcohol use.

To evaluate whether Amtrak is exercising due diligence in controlling drug and alcohol use by HOS employees, we interviewed program officials and senior management, obtained and analyzed federal regulations, reviewed three FRA reports on Amtrak's D&A program (issued in 2006, 2009, and 2012), and reviewed training records for HOS

*Amtrak Office of Inspector General***Railroad Safety: Amtrak is Not Adequately Addressing Rising Drug and Alcohol Use by Employees in Safety-Sensitive Positions**

Report No. OIG-E-2012-023, September 27, 2012

supervisors. Further, we reviewed post-accident and rule-violation records to identify the effect of drug and alcohol use within Amtrak. We also visited five of Amtrak's crew bases in four of Amtrak's seven geographic divisions. We picked these locations with input from the D&A Program Office and in order to obtain a geographic spread of HOS employees. We interviewed HOS supervisors who were available at each location to evaluate their knowledge of Amtrak's D&A program, to better understand why Amtrak was not meeting FRA requirements for physical observations, and to determine whether any weaknesses existed in Amtrak's controls over random testing procedures. We also reviewed Amtrak's "reasonable suspicion" test rates and compared these against the industry average.

Our work was performed in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation* and our statutory responsibilities contained in the *Inspector General Act of 1978*, as amended

Internal Controls

In conducting the evaluation, we reviewed certain Amtrak controls over its D&A program within the context of our objectives. We determined that a deficiency in internal controls existed due to noncompliance with the due diligence requirement in 49 CFR Part 219, such as controls to determine whether sufficient testing was performed and to determine the appropriateness of employees for testing; reviewing senior management's involvement with the program; and the adequacy of physical observations for signs and symptoms of drug and/or alcohol use. We also looked at other Amtrak controls over processes that support efforts to control the use of drugs and alcohol, such as whether employees were adequately trained and their training was properly documented. The results of our review are presented in the body of the report.

Computer-Processed Data

We used computer-processed data obtained from Amtrak on random testing for Amtrak and the industry, physical observations from Amtrak's Total Efficiency and Safety Test System, and training records from Amtrak's Human Resources Information System. We did not review the overall reliability of these systems, but did obtain a general understanding of how the data are collected and entered into the systems, and

Amtrak Office of Inspector General
**Railroad Safety: Amtrak is Not Adequately Addressing Rising Drug and Alcohol Use
by Employees in Safety-Sensitive Positions**
Report No. OIG-E-2012-023, September 27, 2012

other controls over the data, such as how the data are processed and managed. We then reviewed source documents and gathered other evidence to confirm that the data were accurate. We concluded that the data were sufficiently reliable for the purposes of our objectives.

Prior Reports

We relied on the following Amtrak Office of Inspector General reports in conducting our evaluation:

Amtrak Corporate Governance: Implementing a Risk Management Framework is Essential to Achieving Amtrak's Strategic Goals (OIG-A-2012-007, March 30, 2012)


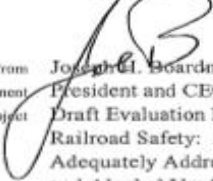
Operation RedBlock: Actions Needed to Improve Program Effectiveness (Report No. E-11-01, March 15, 2011)

Operation RedBlock (Report No. E-08-01, March 4, 2008)

Amtrak Office of Inspector General
**Railroad Safety: Amtrak is Not Adequately Addressing Rising Drug and Alcohol Use
 by Employees in Safety-Sensitive Positions**
 Report No. OIG-E-2012-023, September 27, 2012

Appendix II

**COMMENTS FROM AMTRAK'S
 PRESIDENT AND CHIEF EXECUTIVE OFFICER**

	NATIONAL RAILROAD PASSENGER CORPORATION 60 Massachusetts Avenue, NE, Washington, DC 20002 tel (202) 906-3960, fax (202) 906-2850
<h1 style="margin: 0;">Memo</h1> <p style="margin: 10px 0 0 20px;">Date: September 24, 2012 To: Tel Alves, Inspector General</p>	  <p style="margin: 0;">From: Joseph E. Boardman Department: President and CEO Subject: Draft Evaluation Report 006-2012 – Railroad Safety: Amtrak is Not Adequately Addressing Rising Drug and Alcohol Use by Employees in Safety-Sensitive Positions</p> <p style="margin: 10px 0 0 20px;">cc: Eleanor Acheson Mario Bergeron Roy Deitchman Deborah Jowers Barry Melnkovic Jason Molfetas Malva Reid DJ Stadler Jessica Scritchfield Frank Vacca</p>
<p style="margin: 0;">Message This letter is in response to Office of Inspector General (“OIG”) draft evaluation report number 006-2012, “<i>Passenger Safety: Amtrak is Not Adequately Addressing Rising Drug and Alcohol Use by Employees in Safety-Sensitive Positions,</i>” issued on August 24, 2012.</p> <p style="margin: 10px 0 0 20px;">The OIG evaluation report provides useful information on which Amtrak management can take action. Management remains committed to making valuable improvements to its drug and alcohol program and agrees that no Amtrak employee should be under the influence of drugs or alcohol at work.</p> <p style="margin: 10px 0 0 20px;">Below is management’s response to the recommendation within the recent draft evaluation report.</p> <p style="margin: 10px 0 0 40px;"><u>Recommendation</u></p> <p style="margin: 10px 0 0 60px;">1. Increase the annual percentage of random drug and alcohol tests to improve Amtrak’s ability to detect and deter drug and alcohol use.</p> <p style="margin: 10px 0 0 40px;"><u>Management Response</u></p> <p style="margin: 10px 0 0 60px;">Management agrees with this recommendation. Management will increase the percentage of random drug tests from the current 33% to 50 % for mechanical and engineering Hours-of-service employees for Fiscal Year 2013. Manager Drug and Alcohol Programs will be responsible for this action starting November 30, 2012.</p>	

Amtrak Office of Inspector General
**Railroad Safety: Amtrak is Not Adequately Addressing Rising Drug and Alcohol Use
by Employees in Safety-Sensitive Positions**
Report No. OIG-E-2012-023, September 27, 2012

*Draft Evaluation Report 006-2012 – Railroad Safety: Amtrak is Not Adequately Addressing Rising Drug
and Alcohol Use by Employees in Safety-Sensitive
September 24, 2012
Page 2*

Recommendation

2. Routinely review the results of drug and alcohol testing, comparing them against company goals and industry averages.

Management Response

Management agrees with this recommendation. The Senior Director Health Services and EAP will review drug and alcohol testing results comparing the results against company goals and industry averages and will issue a quarterly report to divisions and senior managers within the Operations Department starting in January 2013.

Recommendation

3. Demonstrate that drug and alcohol control is a priority at Amtrak through the engagement of senior management with the program, and incorporate the risks associated with drug and alcohol use into a risk management framework.

Management Response

Management agrees with this recommendation. A senior management oversight group will be organized by January 2013 and will meet quarterly with the first meeting scheduled to take place in February 2013. The Drug and Alcohol Prevention (DAP) Executive Oversight Committee (EOC) will be chaired by the Vice President-Operations.

Recommendation

4. Ensure that the physical observation program meets or exceeds FRA's guidance, to include:
 - a. revising Amtrak's guidance on the frequency of conducting observations to meet or exceed FRA guidance, and ensuring that all HOS supervisors are advised of this change;
 - b. holding supervisors accountable for performing the required number of observations each quarter;
 - c. improving the efficiency of the process and/or system used to record the physical observations, and
 - d. routinely reporting on the number of observations recorded against the company goals and FRA guidance.

Amtrak Office of Inspector General
**Railroad Safety: Amtrak is Not Adequately Addressing Rising Drug and Alcohol Use
 by Employees in Safety-Sensitive Positions**
 Report No. OIG-E-2012-023, September 27, 2012

*Draft Evaluation Report 006-2012 – Railroad Safety: Amtrak is Not Adequately Addressing Rising Drug
 and Alcohol Use by Employees in Safety-Sensitive
 September 24, 2012
 Page 3*

Management Response

Management agrees with this recommendation. Specifically:

- a. Senior Director, Operating Practice (for Transportation & Engineering) and DCMO Terminal Operations (Mechanical) will be responsible for revising Amtrak's guidance on the frequency of conducting observations to meet or exceed FRA guidance and making sure that all HOS supervisors are advised of this change by December 1, 2012. The next edition of the Supervisor's Guide to TESTS will require all HOS employees to have at least one D&A observation TEST entry per quarter.
- b. Senior Director, Operating Practice (Transportation), DCMO Terminal Operations (Mechanical) and Deputy Chief Engineering Maintenance (Engineering) will be responsible for making sure supervisors are held accountable for performing the required number of observations each quarter within each supervisor's fiscal year 2013 goals by September 2013.
- c. Senior Director, Operating Practice (Transportation), DCMO Terminal Operations (Mechanical) and Deputy Chief Engineering Maintenance (Engineering) will be responsible for improving the efficiency of the process and/or system used to record the physical observation. Currently, there is a project underway to improve the recording system for observations. The new laptop Efficiency TEST application has just completed BETA testing. Management expects the project to be completed by December 15, 2012.
- d. Senior Director, Operating Practice (Transportation), DCMO Terminal Operations (Mechanical) and Deputy Chief Engineering Maintenance (Engineering) will be responsible for routinely reporting on the number of observations recorded against the company goals and FRA guidance. This information will be reviewed by the DAP EOC quarterly beginning March 2013.

Recommendation

5. Ensure that HOS supervisors are properly trained in identifying signs and symptoms of drug and alcohol use and that their training is properly documented.

Management Response

Management agrees with this recommendation. Management will begin drug and alcohol training and/or re-training HOS supervisors beginning March 2013 with a target completion date of March 2014. In connection with this training, management will make sure training is properly documented by individual name and date of the training within SAP. Manager Drug and Alcohol Programs is responsible for these actions.

Amtrak Office of Inspector General
**Railroad Safety: Amtrak is Not Adequately Addressing Rising Drug and Alcohol Use
by Employees in Safety-Sensitive Positions**
Report No. OIG-E-2012-023, September 27, 2012

Appendix III

ABBREVIATIONS

CFR	Code of Federal Regulations
D&A	drug and alcohol
FRA	Federal Railroad Administration
HOS	hours of service

Amtrak Office of Inspector General
**Railroad Safety: Amtrak is Not Adequately Addressing Rising Drug and Alcohol Use
by Employees in Safety-Sensitive Positions**
Report No. OIG-E-2012-023, September 27, 2012

Appendix IV

OIG TEAM MEMBERS

Calvin Evans, Assistant Inspector General, Inspections and Evaluations

Jason Venner, Senior Director, Inspections and Evaluations

Carl Manora, Lead Evaluator

John MacMichael, Senior Principal Operations Officer

Megha P. Joshipura, Statistician, Office of Inspector General, U.S. Department of
Transportation

Amtrak Office of Inspector General
**Railroad Safety: Amtrak is Not Adequately Addressing Rising Drug and Alcohol Use
 by Employees in Safety-Sensitive Positions**
 Report No. OIG-E-2012-023, September 27, 2012

OIG MISSION AND CONTACT INFORMATION

Amtrak OIG's Mission	<p>Amtrak OIG's mission is to</p> <ul style="list-style-type: none"> • conduct and supervise independent and objective audits, inspections, evaluations, and investigations relating to Amtrak programs and operations; • promote economy, effectiveness, and efficiency within Amtrak; • prevent and detect fraud, waste, and abuse in Amtrak's programs and operations; • review security and safety policies and programs; and • review and make recommendations regarding existing and proposed legislation and regulations relating to Amtrak's programs and operations.
<hr/>	
Obtaining Copies of OIG Reports and Testimony	Available at our website: www.amtrakoig.gov .
<hr/>	
To Report Fraud, Waste, and Abuse	<p>Report suspicious or illegal activities to the OIG Hotline (you can remain anonymous):</p> <p>Web: www.amtrakoig.gov/hotline Phone: 800-468-5469</p>
<hr/>	
Congressional and Public Affairs	<p>E. Bret Coulson, Senior Director Congressional and Public Affairs</p> <p>Mail: Amtrak OIG 10 G Street, N.E., 3W-300 Washington, DC 20002</p> <p>Phone: 202-906-4134 Email: bret.coulson@amtrakoig.gov</p>
