Transit Rail Advisory Committee for Safety (TRACS) Working Group 11-02 Report

Defining Standards and Guidance for Establishing Policies to Govern the Use of Prescription and Over-the-Counter Medications by Safety-Sensitive Transit Personnel

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# Introduction

## FTA Administrator’s Tasking to TRACS Working Group 11-02

The Federal Transit Administration (FTA) sponsored a study on Prescription and Over-the-Counter (Rx/OTC) medication policies and notification procedures in the transit industry. The study assessed the number of systems that have implemented Rx/OTC policies and the extent that Rx/OTC medication use was addressed as part of post-accident investigations. The TRACS Working Group is tasked with assisting the FTA Drug and Alcohol Program Manager with reviewing the study and providing recommendations for improving the development of employer Rx/OTC policies, employee Rx/OTC notification, training, and employee reported information in accident/incident investigations.

This report seeks to address these questions and others in providing detailed recommendations for improving the development of employer Rx/OTC policies. This report addresses critical elements of an Rx/OTC policy including:

* Procedures for collecting, reporting, authorizing and monitoring employee use of medications;
* Procedures for determining an employee’s status as it relates to Rx/OTC use;
* Procedures for post-accident investigation and toxicological testing; and
* Roles and responsibilities of safety-sensitive employees, drug and alcohol program managers, management, supervisors, and medical practitioners.

## The Problem

For over a decade, transportation safety experts have expressed concerns that Rx/OTC drug use has increasingly contributed to accidents in all modes of transportation. Studies have shown that Americans are increasingly using and, at times, abusing prescription and OTC drugs.[[1]](#endnote-1) According to the Center for Disease Control, prescription drug abuse is the fastest growing drug problem in the United States. The rise in illicit prescription drug use has coincided with an increase in the legal use of prescription drugs that may impair the safe operation of vehicles. There has been limited scientific research on the impact of Rx/OTC drugs on the operation of vehicles; however a major study sponsored by the National Highway Traffic Safety Administration (NHTSA), found a correlation between the use of certain classes of Rx/OTC drugs and increased incidence of vehicle crashes.[[2]](#endnote-2) Current research has shown that Rx/OTC drugs which may impair driving performance include opioids (e.g., oxycodone, morphine, codeine, tramadol), barbiturates (e.g., Mebaral, Nembutal), hypnotics (e.g., Ambien, Lunesta), benzodiazepines (e.g., Xanax, Valium, Librium, Klonopin, and Ativan), and muscle relaxants (e.g., Flexeril, Soma), as well as certain pain relievers, antihistamines, diabetes medications, antidepressants, antipsychotics, and antihypertensive medications.

## NTSB Recommendations

In January 2000, following a series of accidents in all passenger transportation modes in which the use of legal Rx medications by a vehicle operator had been a primary cause or contributing factor, the National Transportation Safety Board (NTSB) issued recommendations to the FTA regarding the establishment of policies and procedures concerning the use of Rx/OTC medications by safety-sensitive employees (see Appendix A).[[3]](#endnote-3) Subsequently, the Maryland Transit Administration (MTA) experienced two similar accidents just six months apart at the Baltimore-Washington International Airport rail transit station. NTSB accident investigations found that the probable causes for the accidents were, in the first case, an operator’s impairment by illicit and/or prescription drugs (cocaine and tramadol), and, in the second case, an operator’s severe fatigue resulting from undiagnosed obstructive sleep apnea. As a result of these accidents, the NTSB issued further safety recommendations to the FTA concerning the use of Rx/OTC drugs by safety-sensitive employees of transit agencies (see Appendix A). In providing recommendations to the FTA stemming from these accidents the NTSB wrote:

“The physical condition of an employee who carries out safety-sensitive duties should be of vital interest to any rail transit system management. Management is responsible not only for the well-being of that employee but of the passengers, coworkers, and the public, the employee’s actions affect. Some medications, even when they are taken as prescribed or recommended, may have the effect of degrading employee performance. In some cases, legal substances such as over-the counter and prescription drugs can impair the condition of an employee nearly as readily as illegal drugs. Consequently, the Safety Board concluded that because the MTA did not require safety-sensitive employees to report their use of prescription and over-the-counter medications, it lacked information that could have had a bearing on the condition and performance of such employees.”[[4]](#endnote-4)

## FTA Efforts to Address NTSB Recommendations

In response to the NTSB’s recommendations, the FTA encouraged all transit agencies to institute educational programs on medications and initiated an aggressive technical assistance program.[[5]](#endnote-5) In March 2003, the FTA issued the “Prescription and Over-the-Counter Medication Toolkit.” The Toolkit, updated in April 2012, provides best practice models to assist in the development and implementation of Rx/OTC policies and procedures.[[6]](#endnote-6)

In 2009, the FTA conducted an assessment of the status of transit agencies’ Rx/OTC policies, procedures and post-accident investigations. The study found that while most transit agencies had Rx/OTC policies in place, they were rarely enforced nor was there purpose generally understood by management. Furthermore, the study found that transit agencies rarely collected information about Rx/OTC use and its relationship to job performance or in post-accident investigations, and failed to correlate reported Rx usage in accident investigations. An expert panel that reviewed the 2009 Rx/OTC Medication Study recommended that the FTA:

* Establish standards for the industry related to Rx/OTC use;
* Develop standards for the collection, retention and reporting of Rx/OTC medication use;
* Educate safety-sensitive transit agency employees on the potential adverse impact of Rx/OTC medications on safety and job performance;
* Evaluate the costs and benefits of implementing Rx/OTC-related policies;
* Study the extent to which Rx/OTC medication is a causal or contributing factor in transit accidents; and
* Research legal/liability issues of Rx/OTC policies.

# TRACS Recommendations

## Overview

To effectively reduce the safety risks posed by Rx/OTC use by safety-sensitive employees, transit agencies must have in place policies that allow transit agencies to:

* Assess the safety performance of safety-sensitive employees as it relates to Rx/OTC use;
* Monitor Rx/OTC use by safety-sensitive employees;
* Detect violations of policy; and,
* Discipline employees who violate those policies.

Such policies will work best when transit agencies have comprehensive Rx/OTC training programs in place that help to ensure that all safety-sensitive employees understand their responsibilities and see value in regards to maintaining personal and public safety.

FTA can play a critical role in ensuring all transit agencies have effective Rx/OTC safety policies in place by setting standards for Rx/OTC policies and medical use determinations, providing guidance and training based on best practices, sponsoring pilot programs, supporting research on the use and effects of Rx/OTC drugs, and developing protocols for post-accident investigations. This report provides recommendations to FTA regarding measures the agency can take to facilitate the implementation of effective Rx/OTC safety policies by transit agencies of all sizes. It builds on previous efforts supported by FTA to understand and disseminate effective Rx/OTC safety policies, and the recommendations echo many of the recommendations offered by the expert panel that reviewed the FTA’s 2009 Rx/OTC Medication Study. The recommendations highlight important aspects of Rx/OTC safety policies and provide details on how FTA should assist transit agencies in implementing such policies.

This report is organized by the core components of an effective Rx/OTC policy:

* **Standards and Processes related to Rx/OTC use by safety-sensitive employees** - recommends processes and standards for assessing the impact of Rx/OTC use by safety-sensitive personnel.
* **Notification Policies and Procedures** - describes recommended policies for collecting information on employee's Rx/OTC use.
* **Procedures for Accident Investigation and Toxicological Testing** - outlines recommendations for investigating accidents and expanding post-accident drug testing.

Together, these recommendations describe a clear set of responsibilities for employees, employers, employee health care providers (HCPs), State safety oversight agency (SSO) managers and FTA. Those responsibilities are summarized in Figure 1. At a minimum, FTA’s role should be to research best practices, research the extent of Rx/OTC use and their safety impact within the industry, set critical standards for policies and procedures, and support the implementation of effective practices.

**Figure 1. Roles and Responsibilities**

Rx/OTC Standards and Processes

## Overview

At the core of any effective Rx/OTC program are policies and procedures for determining whether an employee’s performance of his/her safety-sensitive duties is impacted by Rx/OTC use. FTA has already identified a cost-effective model for having qualified medical personnel determine the potential effects Rx/OTC medications may have on employees’ ability to perform safety-sensitive duties. This model draws from a procedure established by the Federal Motor Carrier Safety Administration (FMCSA) for conducting medical examinations of employees with Commercial Driver’s Licenses (CDLs). It includes processes for periodic/biennial physical examinations of employees that assess the individual’s medical history, current physical condition, and current use of Rx/OTC medications, and includes a discussion of anticipated future use of Rx/OTCs. This physical provides a baseline medical assessment, gives the Medical Assessment Officer (MAO) a comprehensive view of the individual’s physical health, and allows an opportunity to assess the impact of an employee’s Rx/OTC use on his/her ability to perform safety-sensitive duties. This process encourages a dialog between the MAO and employee regarding his/her current medical status and methods for improvement. To ensure an accurate assessment of the risks to public safety, only licensed physicians identified by the employer as authorized MAOs should be used to assess the impact of Rx/OTC use on an employees’ ability to perform safety-sensitive duties.[[7]](#endnote-7)

## Recommendations

1. **Promote the use of periodic/biennial physicals to make medical determinations related to Rx/OTC for all safety-sensitive employees regardless of mode or size of vehicle operated.**

Periodic physicals should be a core component of transit agency processes assessing an employee’s ability to perform safety-sensitive duties as it relates to Rx/OTC use. An assessment of Rx/OTC use should be completed for all new hires as a condition of employment and should be conducted on a biennial basis, at a minimum. Employees returning to active status after leave (of 90 days or more) or after a medical issue that has the potential to impact the employee's ability to perform their safety-sensitive duties should undergo a reassessment of Rx/OTC use before they are assigned safety-sensitive job duties; such reassessments should also be considered in cases of “reasonable suspicion.”

The assessment should include a review of the employee’s current and anticipated use of Rx/OTC medications. The scope of the periodic physical should be limited to Rx/OTC usage and the impact of Rx/OTC usage on the employee's ability to perform essential job functions of a safety-sensitive position as noted above. Periodic physicals conducted for transit employees with a CDL that meet all standards set forth for a CDL physical should qualify as an employee’s required periodic physical.

1. **Provide guidelines for the review of an employee’s Rx/OTC medication use.**

FTA should define when a review is necessary for employees who notify their employers that they are taking an Rx/OTC medication. Reviews should be necessary only when the employee reports a new Rx/OTC medication. While the employer’s MAO should have the final authority to make determinations, if the employee’s HCP has signed a release to work statement, then that employee should not be removed from service pending MAO review. Upon review of the reported Rx/OTC medication, the MAO should have the discretion to withhold the employee from performing safety-sensitive service. It is incumbent on the employer to provide timely reviews. Transit agencies should define an appeal process for aggrieved employees who believe they are being wrongly withheld from duty. Such appeal processes should be developed jointly between management and the labor organizations representing employees defined as ‘safety sensitive’ or otherwise covered by the transit agency’s program. Transit agencies should also seek to assign employees that fail the review to other non-safety-sensitive duties.

1. **Encourage transit agencies to set Rx/OTC standards for safety-sensitive employment categories.**

FTA should issue guidance clarifying the definition of safety-sensitive employees that are subject to Rx/OTC review, while recognizing that it is the responsibility of the transit agency to determine the employee’s classification as safety-sensitive. FTA should use the same definition of safety-sensitive that is used in 49 CFR Part 655.4.[[8]](#endnote-8)

To assist transit agencies, FTA should provide further guidance on the essential job functions for major safety-sensitive employment categories allowing transit agency to validate or modify those essential functions based on the position’s actual job duties. While transit agencies employ a broader range of job descriptions, standards established by the FMCSA as described in 49 CFR 391.41(b) can serve as a guide for the development of standards for the major transit safety-sensitive employee categories including dispatchers, maintenance workers, and security personnel, in addition to operators. FTA should also provide examples of acceptable Rx/OTC usage for specific conditions that may apply to specific safety-sensitive positions.

1. **Define qualifications and standards for how determinations on Rx/OTC usage should be made.**

 Assessments of the potential impacts of an employee’s Rx/OTC usage on his/her ability to perform safety-sensitive job functions should be made by a licensed physician serving as an agent of the employer and performing the duties of the employer’s MAO.While the opinion of an employee’s HCP regarding an employee’s medical condition should be taken into consideration, the employer’s MAO should have the authority to make the ultimate determination regarding an employee’s medical status as it relates to Rx/OTC usage. . The MAO has the necessary knowledge of the employee’s medical condition, as well as his/her required job duties and compliance with clinical evaluation recommendations to make an informed determination related to Rx/OTC use in order to protect the public interest in safety. As necessary, the MAO should work with the employee’s treating/prescribing HCP to obtain additional information and address issues of concern. The MAO should have the authority to establish follow-up requirements and any corresponding restrictions.

The responsibilities of the MAO should include review and approval of appropriately released physical examination reports, medical histories, and determinations. The MAO should be expected to have knowledge of: the essential job functions of safety-sensitive employees as defined by the employer; FMCSA guidance on fitness-for-duty for those drivers required to meet FMCSA medical standards; and knowledge of the potential impairment effects of medical conditions, treatments, and medications. The MAO should be expected to complete training that addresses the role of the MAO and the knowledge required. FTA should facilitate training of MAOs.

1. **Take steps to ensure the privacy of employees subject to Rx/OTC usage determinations.**

Information used to make medical determinations should be treated as confidential medical records and protect employee privacy.Processes for assessing medical conditions related to Rx/OTC and managing associated records should conform to **the Health Insurance Portability and Accountability Act (HIPAA). Interactions between the patient and the MAO and between the patient’s personal physician and the MAO should be kept confidential. Employers should only be informed of the MAO determination and safety-related** information.

1. **Provide resources to help employees talk to their health care providers about their safety-sensitive job duties.**

**Employee HCPs are primarily responsible for diagnosing medical conditions and prescribing treatments, yet they often do not fully consider the impact of an employee’s condition or medication use in relation to their safety-sensitive job functions when assessing a patient’s health or prescribing treatments. FTA should provide brochures, forms, and training to help employees work with their HCPs to ensure that their job duties are taken into consideration when the HCP prescribes medications or recommends treatments or OTC medications. For example,** FTA could provide a standardized form that discusses an employee’s safety-sensitive status and asks for the HCP’s signature. However, it is recognized that neither FTA nor the employee have the ability to compel an HCP to sign such a form; therefore the absence of a signed form by the employee’s HCP should have no bearing on the MRO’s determinations regarding Rx/OTC use.

# Notification Policies and Procedures

## Overview

The procedures and policies related to employee disclosure of Rx/OTC use are a core element of an effective Rx/OTC program. Many transit agencies already have in place policies that require employees to report use of Rx/OTC medications; however, policies differ as to what medications employees are required to report. Rx/OTC use notification policies should address issues such as: when an employee is required to notify his/her employer of new Rx/OTC use; the consequences for failure to report; and the processes for confidentially reporting Rx/OTC usage to the MAO.

## Recommendations

1. **Encourage transit agencies to require safety-sensitive employees to notify employers of Rx/OTC use. Provide standards for the collection and reporting of Rx/OTC medications.**

Employees should be required to disclose Rx/OTC use when a new employee is hired and when employees are examined for scheduled medical assessments. Disclosure may also be required when there is reasonable suspicion and during post-accident investigations. Finally policies should require employees to notify their employer’s MAO whenever they are prescribed a new medication. To lessen the reporting burden, employees can report occasional use of medications at their periodic physical.

Transit agencies should work with Labor organizations representing safety-sensitive employees to define disciplinary procedures and associated due process and appeal procedures should an employee fail to disclose a medication in conformance with the agency’s policy. Transit agencies should also develop procedures jointly with employee Labor organizations for challenging or appealing decisions. To facilitate the implementation of such practices, FTA should sponsor pilot programs to demonstrate practical, industry-proven methods for instituting Rx/OTC disclosure programs and should create a forum for sharing best practices and model Labor/Management agreements addressing these issues.

1. **Ensure transit agencies develop disclosure processes that safeguard employee confidentiality.**

To encourage disclosure of Rx/OTC medication use, notification processes should safeguard employee confidentiality by allowing for direct disclosure of Rx/OTC medication use to the MAO, bypassing operational managers. The MAO may need access to employee medical history to make an appropriate determination, therefore the employer may request an employee sign a HIPAA release form for access to Rx history. Transit agencies should ensure that they have the systems and processes in place to keep accurate, confidential, and up-to-date records of employees’ reported Rx/OTCs. Larger agencies may need to develop automated database systems and standard forms and processes for information storage and retrieval.

1. **Encourage transit agencies to consider linking Rx/OTC disclosure to wellness programs.**

Linking Rx/OTC policies to wellness programs can provide employees an incentive to disclose medications in order to receive assistance adjusting their medications and/or addressing underlying medical conditions. There are a number of common controllable and interrelated conditions that may be found in transit employees that medical assessments can help detect and wellness programs can help address. Some common conditions include obesity, hypertension, inactivity, smoking, and diabetes. These conditions can result in significant productivity losses and increased health insurance costs for transit agencies, therefore, transit agencies should receive additional benefits to use wellness programs to address them. It is assumed that linking Rx/OTC policies to wellness programs can save employers significant money over the long run by raising retention rates, avoiding the training costs of replacement employees, and lowering insurance costs.

1. **Support the development of training materials for employees and supervisors on Rx/OTC policies and procedures.**

Transit agencies should provide training, reinforced with repeated communications, on the responsibilities of employees regarding the reporting of Rx/OTC use. Transit agencies should provide guidance to employees on common medication types known to cause impairments and on the importance of timely notification. FTA can assist transit agencies by developing self-paced web-based training and collateral materials for supervisors and employees on standard Rx/OTC notification policies.

# Procedures for Accident Investigation and Toxicological Testing

## Overview

The Department of Transportation currently prohibits the use of marijuana, cocaine, amphetamines, opiates and phencyclidine (PCP) by employees at any time. In addition, employees are prohibited from using alcohol while performing a safety-sensitive function, while on call, or four hours before beginning a safety-sensitive function. To help enforce this policy, FTA requires grant recipients to conduct random employee drug and alcohol testing and to test safety-sensitive employees for drug and alcohol use in the following events: before an employee first performs a safety-sensitive function; immediately following a qualifying accident; and when a trained supervisor has a reasonable suspicion that an employee has used a prohibited drug or misused alcohol. Return-to duty and follow-up drug and alcohol tests are also required if an employee returns to work following a positive test result or test refusal after successfully completing the return to duty process. Current DOT standard drug tests, however, do not detect the largest class of painkillers, synthetic opioids, nor do they detect commonly used benzodiazepines, barbiturates, and antidepressants, all of which can impair normal functioning. In addition, impairing medications that are detected by a DOT drug test are verified as negative by Medical Review Officers (MRO) if the medications are taken consistent with a valid prescription. MROs may inform employers of laboratory results with a valid prescription that come to their attention during the verification process. However, it must be recognized that the mere presence of medications taken consistent with OTC instructions or a valid prescription is not in its self a violation of law or policy or proof of impairment.

The TRACS Working Group believes that, while the core components of this policy are effective, procedures for accident investigation and toxicological testing must be expanded to account for the prevalence of Rx/OTC use by safety-sensitive employees. Revised testing and investigation procedures to account for the use of potentially impairing Rx/OTC medications are necessary to allow transit agencies to effectively enforce Rx/OTC notification policies and to deter Rx/OTC misuse, as well as to determine the extent to which Rx/OTC is a causal or contributing factor in transit accidents.

## Recommendations

1. **Expand the panel of drugs tested in post-accident situations to include commonly used/abused impairing Rx/OTC for research purposes.**

FTA should expand the panel of drugs tested in post-accident situations, as defined in 49 CFR Part 655/659,[[9]](#endnote-9) to include commonly used Rx/OTC medications known to impair driving for research purposes. FTA should develop a list of such commonly used Rx/OTC medications and transit agencies should test for these medications in post-accident situations. Positive tests for such commonly used Rx/OTC medications should be reported to FTA by MROs for a period of 5 years; however, positive tests will not be considered a violation of transit agency policy or FTA rules. FTA should keep the post-accident test results for these Rx/OTC medications confidential while it continues to obtain and analyze data on the extent to which prescription and over-the-counter (OTC) medication use by transit employees and contractors potentially affects rail safety. At the expiration of the 5-year data collection period, FTA should analyze the data to determine to what extent, if any, the presence of specific Rx/OTC medications was a primary or contributing cause of accidents. After completion of such analysis FTA should issue a report outlining its analysis of post-accident Rx/OTC use and develop recommendations, based upon its analysis and findings, as to whether specific Rx/OTC medications should be prohibited or controlled.

1. **Instruct transit systems to incorporate Rx/OTC questions into post-accident assessments.**

FTA should provide guidance to transit agencies on incorporating Rx/OTC questions into their post-accident procedures. Guidance should include recommended policies and protocols to preserve employee confidentiality while effectively seeking information on Rx/OTC use of safety-sensitive employees involved in serious accidents. This guidance should strongly encourage transit agencies to conduct Rx/OTC assessments of employees involved in all accidents that meet the minimum requirements as defined in 49 CFR Part 655.4 and 655.44.

FTA should provide model protocols for post-accident investigation questions and procedures to assist transit agencies in determining whether Rx/OTC was a factor in an accident. FTA should require transit agencies to provide identity-neutral summary information to FTA on a periodic basis to allow FTA to create a database of relevant Rx/OTC accident data.

To help preserve the confidentiality of the employee, the recommended protocol should allow the employee involved in the accident to report Rx/OTC use to the employer's MAO using a confidential form. Determinations regarding the role of Rx/OTC in an accident should only be made by the MAO. In addition, FTA should seek to restrict access to medical records in the same way 49 CFR Part 655/Part 40 restricts access to drug and alcohol testing records.

1. **Support research efforts to determine the impairing Rx/OTC medications most frequently used by safety-sensitive employees and to improve the understanding of the impairing side effects of Rx/OTC medications.**

One approach to improving the understanding of those Rx/OTC medications most likely to be a factor in serious accidents would be to allow for expanded Rx/OTC post-mortem drug testing on specimens from safety-sensitive personnel who are fatally injured. The FTA should issue guidance to transit agencies regarding recommended procedures for post-mortem testing.

In addition, the release of de-identified MRO and lab negative split specimens by the Office of Drug and Alcohol Policy and Compliance (ODAPC) for additional analysis by FTA request for study purposes could be useful in identifying the ambient level of Rx/OTC use of these medications by safety-sensitive personnel. Further, industry data regarding frequency of use and impairment potential of Rx/OTC use by safety-sensitive employees should be gathered to determine risk exposure. Finally, Rx/OTC medications with common side effects that can impair driving should be incorporated into future Post-Accident Testing Heuristics (PATH) research when possible.

# Conclusion

While many transit agencies have some version of an Rx/OTC policy already in place, there is much FTA can do to ensure that such policies are effectively implemented and enforced. The recommendations laid out in this report (see Figure 2) are intended to provide FTA with both an overview of the characteristics of an effective Rx/OTC policy and suggestions for how FTA can best facilitate the implementation of such a policy. The TRACS Working Group believes that implementing these recommendations will be an important step towards improving the safety of transit riders, employees, and the general public, as well as the well-being of transit safety-sensitive employees.

 **Figure 2. Recommendations Summary**

# Acronyms

**CDL** Commercial Driver’s License

**CFR** Code of Federal Regulations

**FMCSA** Federal Motor Carrier Safety Administration

**FTA** Federal Transit Administration

**HCP** Health Care Provider

**HIPAA Health Insurance Portability and Accountability Act**

**MAO** Medical Assessment Officer

**MRO** Medical Review Officer

**MTA** Maryland Transit Administration

**NHTSA**  National Highway Traffic Safety Administration

**NTSB**  National Transportation Safety Board

**ODAPC** Office of Drug and Alcohol Policy and Compliance

**OTC** Over the Counter

**PATH** Post-Accident Testing Heuristics

**Rx** Prescription

**SSO** State Safety Oversight Agency

**TRACS** Transit Rail Advisory Committee for Safety

# Appendix A. NTSB Recommendations

| **NTSB Rec #** | **Recommendation** |
| --- | --- |
| **R-00-5** | Establish, with assistance from experts on the effects of pharmacological agents on human performance and alertness, procedures or criteria by which transit vehicle operators who medically require substances not on the U.S. Department of Transportation’s list of approved medications may be allowed, when appropriate, to use those medications when operating transit vehicles. Status: Closed – Acceptable Alternate Action (1/24/2005) |
| **R-00-6** | Develop, and then periodically publish, an easy-to-understand source of information for transit vehicle operators on the hazards of using specific medications when operating transit vehicles. Status: Closed – Acceptable Action (1/24/2005) |
| **R-00-7** | Establish and implement an educational program targeting transit vehicle operators that, at a minimum, ensures that all operators are aware of the source of information described in R-00-6 regarding the hazards of using specific medications when operating transit vehicles. Status: Closed – Acceptable Action (1/24/2005) |
| **R-00-8** | Establish, in coordination with the U.S. Dept. of Transportation, the Federal Motor Carrier Safety Administration, the Federal Railroad Administration, and the U.S. Coast Guard, comprehensive toxicological testing requirements for an appropriate sample of fatal highway, railroad, transit, and marine accidents to ensure the identification of the role played by common prescription and over-the-counter medications. Review and analyze the results of such testing at intervals not to exceed every 5 years. Status: Open – Acceptable Response (1/26/2009) |
| **R-01-25** | Authorize and encourage rail transit systems to require their employees in safety-sensitive positions to inform the rail transit system about their use of prescription and over-the-counter medications so that the rail transit system can have qualified medical personnel determine potential effects on employee performance. Status: Closed – Acceptable Response (4/15/2004) |
| **R-01-27** | Ensure that your fatigue educational awareness program includes the risks posed by sleeping disorders, the indicators and symptoms of such disorders, and the available means of detecting and treating them. |
| **R-10-5** | Seek authority similar to Federal Railroad Administration regulations (Title 49 *Code of Federal Regulations* 219.207) to require that transit agencies obtain toxicological specimens from covered transit employees and contractors who are fatally injured as a result of an on-duty accident. |

# Endnotes

1. See National Survey on Drug Use and Health, University of Michigan, “Monitoring the Future.” [↑](#endnote-ref-1)
2. NHTSA, A Pilot Study to Test Multiple Medication Usage and Driving Functioning, 2008. [↑](#endnote-ref-2)
3. In 2003, there was another major accident involving an operator’s use of Rx drugs and improper medical review where 11 patrons were killed in the collision of the Staten Island Ferry with a concrete pier. The Staten Island Ferry is operated by the New York City Department of Transportation using FTA grant funding. [↑](#endnote-ref-3)
4. http://www.ntsb.gov/doclib/recletters/2001/R01\_25.pdf [↑](#endnote-ref-4)
5. In November 2003, the FTA published and distributed “Implementation Guidelines for Drug and Alcohol Regulations in Mass Transit.” The guidelines encouraged grantees to:

	* Review current policies with regard to operators' use of over-the-counter prescription medications that could result in public safety being jeopardized;
	* Immediately institute education programs that address the potential dangers of taking certain types of medications, including those that may cause drowsiness or impair the operator's cognitive or mental abilities;
	* Encourage employees, as part of the educational program, to discuss with their physician or pharmacist the side of effects of any medications and to inquire about potential alternative treatments that will not impair job performance. [↑](#endnote-ref-5)
6. The toolkit was updated in February 2012. [↑](#endnote-ref-6)
7. http://transit-safety.fta.dot.gov/DrugAndAlcohol/Newsletters/issue25/html/pg5.htm [↑](#endnote-ref-7)
8. As defined in 49 CFR Part 655.4, a safety-sensitive employee is an employee of recipients, subrecipients, operators, or contractors who perform any of the following duties:

Operating a revenue service vehicle, including when not in revenue service;

Operating a nonrevenue service vehicle, when required to be operated by a holder of a Commercial Driver's License;

Controlling dispatch or movement of a revenue service vehicle;

Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service [excludes Section 5307 and 5309 recipients in areas of less than 200,000 in population that contract out such service and Section 5311 subrecipients that contract out such services].

Carrying a firearm for security purposes. [↑](#endnote-ref-8)
9. As defined in 49 CFR Part 655, an accident is:

An occurrence associated with the operation of a vehicle, if as a result: (1) An individual dies; or (2) An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or (3) With respect to an occurrence in which the mass transit vehicle involved is a bus, electric bus, van, or automobile, one or more vehicles (including non-FTA funded vehicles) incurs disabling damage as the result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or other vehicle; or (4) With respect to an occurrence in which the mass transit vehicle involved is a rail car, trolley car, trolley bus, or vessel, the mass transit vehicle is removed from operation.

As defined in 49 CFR Part 659, rail transit agencies are required to notify the oversight agency within two hours for any incident involving a rail transit vehicle or taking place on transit-controlled property that surpasses any of the following thresholds:

	* A death results within 30 days.
	* Property damage of over $25,000 occurs.
	* Any collision at a grade crossing.
	* Any main-line derailment.
	* Any collision with an individual on a right of way.
	* Any collision between a rail transit vehicle and another vehicle. [↑](#endnote-ref-9)