



Transportation Trades Department, AFL-CIO

June 21, 2023

John Karl Alexy  
Associate Administrator for Railroad Safety  
Federal Railroad Administration  
1200 New Jersey Avenue, SE  
Washington, DC 20590

**RE: Petition for Extension of Waiver of Compliance, PATH  
Docket No. FRA-2002-12409**

Dear Mr. Alexy:

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am pleased to respond to the Federal Railroad Administration's (FRA) notice of Port-Authority Trans Hudson's (PATH) petition to extend its waiver of compliance with respect to the timely fixing of door defects under 49 CFR §238.305 and the required Class II brake inspection under 49 CFR §238.317. TTD consists of 37 affiliated unions representing the totality of rail labor, including PATH rail workers. We ask that the FRA deny PATH's petition on the grounds that eight days is an unacceptable wait time for repairing mechanical door defects and risks the safety of the affected trains, passengers, and crews. Additionally, we endorse the comments of our affiliate, the Transportation Division of the International Association of Sheet Metal, Air, Rail, and Transportation Workers (SMART-TD).

PATH seeks to extend a waiver related to passenger equipment standards under Part 238 of Title 49, Code of Federal Regulations.<sup>1</sup> Specifically, PATH requests to extend its existing waiver relief from 49 CFR §238.305(c)(10) and (d), and 49 CFR §238.317(a)(1). PATH requests continued relief from the requirement that a car must be removed from service on the day after its calendar day interior mechanical inspection. In its petition, PATH seeks permission for a car to remain in service up to eight calendar days following notification of a mechanical door defect. It also seeks relief from the requirement to perform a Class II brake test where terminal dwell time is less than five minutes because of logistical challenges.

PATH operates a high daily frequency of trains that transports tens of millions of passengers on a yearly basis.<sup>2</sup> These riders and crew rely on the ability to enter and exit all doors of railcars as part of normal operations. The necessity is only heightened in an emergency such as a fire when passengers and crew need to be able to exit a rail car in an expeditious manner. If a door is malfunctioning and unable to open, that poses a fire hazard. Likewise, if a door is malfunctioning and opens unexpectedly, passengers are at risk of serious injury or death if they accidentally exit the rail car not at a train platform.

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<sup>1</sup> <https://www.regulations.gov/document/FRA-2002-12409-0020>

<sup>2</sup> <https://www.panynj.gov/path/en/about/stats.html>

49 CFR §238.05(d) already provides flexibility on removing a car from service by allowing a car to remain in passenger service until the car's next interior calendar day mechanical inspection. PATH's request to extend this waiver indicates it has cars with end and side door defects that don't get repaired for upwards of eight days. Waiting eight days to fix door defects, potentially ones that could risk the safety of passengers and train crews, is an unacceptable level of safety risk. If a door is malfunctioning and opens in an improper location, or if there is a fire, serious injury or death could be the result of the defect not getting fixed.

TTD is cognizant that PATH's application claims the difficulty of moving railcars to the repair facility during the day and that there is limited space at the rail yard to make these repairs. But there has to be a middle ground between moving railcars during peak service hours and waiting up to eight days to fix the railcar. PATH's current off-peak headways are as infrequent as every 40 minutes during the middle of the night and on weekends. Surely, there must be some possibility to move the railcars that need to be repaired then. Allowing PATH to continue to have upwards of eight days to fix side and end door defects sets a bad precedent that other commuter and passenger railroads may seek to follow. For these reasons, we ask that the FRA deny PATH's waiver petition so that a more reasonable solution can be found.

Sincerely,

A handwritten signature in black ink, appearing to read 'Greg Regan', with a stylized flourish at the end.

Greg Regan  
President