

July 7, 2025

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, CN Extraterritorial Dispatching
Docket No. FRA-2003-15012**

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 regarding Canadian National Railway's (CN) petition to extend its waiver allowing Canadian dispatching of two locations in the United States: the portion of the Sprague Subdivision extending approximately 43.8 miles between Baudette and International Boundary, Minnesota, and the portion of the Strathroy Subdivision extending approximately 3.1 miles between Sarnia, Ontario, Canada, through the St. Clair River Tunnel, to Port Huron, Michigan. TTD consists of 38 affiliated unions representing the totality of rail labor, including rail workers who operate on these lines.¹ For the reasons outlined below, we respectfully request that the FRA deny CN's petition to extend its waiver for 10 years. Additionally, we strongly endorse the comments filed in this docket by our affiliate, the American Train Dispatchers Association (ATDA).

TTD has repeatedly commented in opposition to CN's requests to extend its waiver permitting the continued operation of rail lines in the United States with train dispatching duties held by Canadian workers.² The practice of extraterritorial dispatching has long posed significant safety concerns and deprived highly-skilled American train dispatchers of work. In addition to the safety implications of extraterritorial dispatching, we are also concerned about the length of CN's requested waiver extension. Stakeholders and the FRA must have the opportunity to reassess long-standing waivers at reasonable intervals, which has generally been accepted to be five years. In our view, CN's requested 10 years is too long to account for regulatory changes and any other technological or safety developments that may impact waiver conditions, like the recently promulgated train dispatcher certification requirements, for example.

¹ Attached is a complete list of unions affiliated with TTD.

² <https://ttd.org/policy/federal-comments/justification-needed-to-deny-work-to-u-s-train-dispatchers/>

Canadian Dispatching Operations Lack Necessary Oversight

In consideration of CN's request, we must highlight the differences in regulatory and safety oversight systems in the United States and Canada that expose the domestic rail transportation system to unnecessary risk. These differences are even more pronounced following the promulgation of certification standards for train dispatchers in the United States. Certification programs will include a number of provisions intended to ensure that American train dispatchers are trained, qualified, and do not have a record of drug or alcohol violations, among other requirements. Train dispatcher certification programs will fundamentally improve rail safety in the United States, and unfortunately, these same standards cannot be applied to train dispatchers located in Canada.

In addition to certification requirements, Canadian train dispatchers are not subject to the same critical drug and alcohol testing mandate as their American counterparts, including random screening. Given the potential impairment for cognitive function of an individual under the influence of drugs or alcohol, testing is an essential element in ensuring safe rail operations. As such, all U.S. railroad employees in safety sensitive positions, including train dispatchers, are subject to mandatory random drug and alcohol testing, as well as reasonable suspicion, reasonable cause, post-accident, and pre-employment testing.³

In its March 20, 2025 filing, CN claims its drug and alcohol policies, along with Canadian law, "satisfy the core requirements of US regulations." However, CN notably omits any mention of the random drug and alcohol testing that is required for U.S. train dispatchers under 49 C.F.R. Part 219, likely because this same random drug and alcohol screening is prohibited by Canadian law.

This regulatory gap was tragically illustrated on September 2, 2021, when a CN dispatcher impaired by alcohol contributed to a head-on freight train collision near Prescott, Ontario. According to Canada's Transportation Safety Board (March 13, 2024), the crash injured three employees, seriously damaged four locomotives, caused a fuel spill, derailed 16 cars, and destroyed 1,000 feet of track. A breath test taken two hours after the accident estimated the dispatcher's blood alcohol level between 0.064 and 0.109 at shift start, levels that would have resulted in immediate removal under U.S. regulations.

Of additional concern is the number of hours a train dispatcher may work in a given 24-hour period. In the United States, Title 49 U.S.C. §21105(b) limits the total number of hours an employee in train dispatching service may work to no more than nine (9) hours in any continuous twenty-four (24) hour period. As the FRA itself stated in its reasoning for 49 C.F.R. part 241, fatigue can cause

³ 49 C.F.R. part 219

dispatchers to make mistakes which may lead to catastrophic railroad accidents, much the same as alcohol or drug impairment.⁴ While the Canada Labour Code places a limit on the number of hours worked in weekly (48) and biweekly (80) periods, there are no protections in place ensuring that Canadian train dispatchers are not subject to excessively long hours and/or multiple contiguous tours of duty.

Given the safety concerns inherent in extraterritorial dispatching operations, we respectfully request that the FRA deny CN's petition to extend its waiver. We appreciate the opportunity to comment on this waiver request and look forward to working with the FRA in the future.

Sincerely,

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

Greg Regan
President

⁴ 67 Fed. Reg. 75948