

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, CPKC Extraterritorial Dispatching  
Docket No. FRA-2003-15010**

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 concerning the Canadian Pacific Kansas City Railway Company's (CPKC) petition to extend its waiver of compliance from certain provisions contained at 49 C.F.R. Part 241, *United States Locational Requirement for Dispatching of United States Rail Operations*. Specifically, CPKC requests an extension of relief pursuant to 49 CFR 241.7(c), Fringe border dispatching, to allow the continuation of Canadian dispatching of three locations in the United States: (1) 1.8 miles of the Windsor Subdivision between Windsor, Ontario, Canada, and Detroit, Michigan, United States; and (2) two track segments totaling 23.44 miles on the Newport Subdivision between Richford, Vermont, and East Richford, Vermont, United States and between North Troy, Vermont, and Newport, Vermont, United States.

TTD and our member unions have a vested interest in the safety and security of the United States Rail Network.<sup>1</sup> We therefore urge the FRA to deny CPKC's petition to extend its waiver. In addition, we strongly endorse the comments filed in this docket by our affiliate, the American Train Dispatchers Association (ATDA).

In 2003, the FRA codified the importance of safety and security of the United States Rail Network under 49 C.F.R. Part 241 ("Part 241"), which ensures that all rail operations conducted in the United States are controlled by train dispatchers located in the United States. This longstanding requirement maintains a high level of safety and security for the transportation of goods and passengers. The continued allowance of CPKC to dispatch the operations subject to

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<sup>1</sup> Attached is a complete list of the unions affiliated with TTD.

this waiver from locations outside of the United States fundamentally undermines the safety and security of US rail operations.

### **Canadian Train Dispatching Operations Lack Necessary Regulatory Oversight**

The regulatory and safety oversight systems in the United States and Canada differ in a number of important ways. 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.<sup>2</sup>

In its request for relief, CPKC highlights, “CPKC’s drug and alcohol policies and testing procedures, in combination with Canadian law, continue to satisfy the core requirements of the US regulations.”<sup>3</sup> However, CPKC then states that this policy is proprietary and confidential information, thus exempting them from disclosure to the public. This assertion functionally prevents public review and verification of CPKC’s claim that its existing procedures, in conjunction with Canadian law, satisfy the core requirements of U.S. regulations. The FRA must not allow a foreign government or foreign company to override the longstanding safety requirements promulgated by the U.S. Department of Transportation or the FRA.

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. The purpose of these limitations is well established and necessary for the safe operation of a railroad. As the FRA itself stated in its reasoning for 49 C.F.R. part 241, fatigue can cause dispatchers to make mistakes which may lead to catastrophic railroad

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<sup>2</sup> 49 C.F.R. part 219

<sup>3</sup> [https://downloads.regulations.gov/FRA-2003-15010-0030/attachment\\_1.pdf](https://downloads.regulations.gov/FRA-2003-15010-0030/attachment_1.pdf)

accidents, much the same as alcohol or drug impairment.<sup>4</sup> 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. This is of particular significance when considering this petitioner's request given its recent history of 49 U.S.C. §21105 violations at its U.S. based Minneapolis Operations Center where, in a period of just ninety (90) days (August – October 2022), the FRA documented **130 occurrences of excessive service**. Had such serious safety violations occurred outside of the U.S., the FRA would have no ability to intervene as it did then with commendable vigilance to halt such egregious violations.

### **Conclusion**

49 C.F.R. Part 241 was promulgated for the purpose of establishing a U.S. locational requirement for the dispatching of all U.S. Rail Operations. The position of the American Train Dispatchers Association in particular, and rail labor in general, is that the requirements of these regulations must not be waived. Such waivers will only serve to erode the safety and security of the operations that regulations have been established to protect. We therefore oppose the relief sought by CPKC and strongly urge the FRA to deny its request.

We appreciate the opportunity to comment on this matter 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 circular flourish at the end.

Greg Regan  
President

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<sup>4</sup> 67 Fed. Reg. 75948