

§241.11

49 CFR Ch. II (10–1–10 Edition)

part shall not require or permit a dispatcher located outside the United States to dispatch a railroad operation that occurs in the United States if the dispatcher is employed by the railroad or by a contractor to the railroad.

(b) *Transitional period to continue existing extraterritorial dispatching.* A railroad that has normally extraterritorially dispatched railroad track in the United States from Canada or Mexico pursuant to the regulations contained in 49 CFR part 241, revised as of October 1, 2002, may continue extraterritorial dispatching of that railroad track until April 10, 2003, to permit the railroad an opportunity to file a waiver request pursuant to §241.7.

(c) *Emergencies.* (1) In an emergency situation, a railroad may require or permit one of its dispatchers located outside the United States to dispatch a railroad operation that occurs in the United States, provided that:

(i) The dispatching railroad notifies the FRA Regional Administrator of each FRA region where the railroad operation was conducted, in writing as soon as practicable, of the emergency; and

(ii) The extraterritorial dispatching is limited to the duration of the emergency.

(2) Written notification may be made either on paper or by electronic mail.

(3) A list of the States that make up the FRA regions and the street and e-mail addresses and fax numbers of the FRA Regional Administrators appears in appendix C to this part.

(d) *Liability.* The Administrator may hold either the railroad that employs the dispatcher or the railroad contractor that employs the dispatcher, or both, responsible for compliance with this section and subject to civil penalties under §241.15.

§241.11 Prohibition against conducting a railroad operation dispatched by an extraterritorial dispatcher; exceptions.

(a) *General.* Except as provided in §241.5(d) or paragraphs (b) and (c) of this section, a railroad subject to this part shall not conduct, or contract for the conduct of, a railroad operation in the United States that is dispatched

from a location outside of the United States.

(b) *Transitional period to continue existing extraterritorial dispatching.* A railroad that has normally conducted, or contracted for the conduct of, a railroad operation in the United States that is extraterritorially dispatched pursuant to the regulations contained in 49 CFR part 241, revised as of October 1, 2002, may continue to conduct or contract for the conduct of the operation until April 10, 2003, to permit the railroad an opportunity to file a waiver request pursuant to §241.7.

(c) *Emergencies.* (1) In an emergency situation, a railroad may conduct, or contract for the conduct of, a railroad operation in the United States that is dispatched from a location outside the United States, provided that:

(i) The dispatching railroad notifies the FRA Regional Administrator of each FRA region where the railroad operation was conducted, in writing as soon as practicable, of the emergency; and

(ii) The extraterritorial dispatching is limited to the duration of the emergency.

(2) Written notification may be made either on paper or by electronic mail.

(3) A list of the States that make up the FRA regions and the street and e-mail addresses and fax numbers of the FRA Regional Administrators appears in appendix C to this part.

(d) *Liability.* The Administrator may hold either the railroad that conducts the railroad operation or the railroad contractor that conducts the operation, or both, responsible for compliance with this section and subject to civil penalties under §241.15.

§241.13 Prohibition against track owner's requiring or permitting use of its line for a railroad operation dispatched by an extraterritorial dispatcher; exceptions.

(a) *General.* Except as provided in paragraphs (b) and (c) of this section, an owner of railroad track located in the United States shall not require or permit the track to be used for a railroad operation that is dispatched from outside the United States.

(b) *Transitional period to continue existing extraterritorial dispatching.* An owner of a track segment located in

the United States that is extraterritorially dispatched pursuant to the regulations contained in 49 CFR 241, revised as of October 1, 2002, may require or permit the track segment to be continued to be used for a railroad operation that is extraterritorially dispatched until April 10, 2003, to permit the railroad an opportunity to file a waiver request pursuant to § 241.7.

(c) *Emergencies.* In an emergency situation, an owner of railroad track located in the United States may require or permit the track to be used for a railroad operation that is dispatched from outside the United States, provided that:

(1) The dispatching railroad notifies the FRA Regional Administrator of each FRA region where the operation was conducted, in writing as soon as practicable, of the emergency and

(2) The extraterritorial dispatching is limited to the duration of the emergency. Written notification may be made either on paper or by electronic mail.

(d) *Liability.* The Administrator may hold either the track owner or the assignee under § 213.5(c) of this chapter (if any), or both, responsible for compliance with this section and subject to civil penalties under § 241.15. A common carrier by railroad that is directed by the Surface Transportation Board to provide service over the track in the United States of another railroad under 49 U.S.C. 11123 is considered the owner of that track for the purposes of the application of this section during the period that the directed service order remains in effect.

§ 241.15 Penalties and other consequences for noncompliance.

(a) Any person who violates any requirement of this part or causes the violation of any such requirement is subject to a civil penalty of at least \$650 and not more than \$25,000 per violation, except that: Penalties may be assessed against individuals only for willful violations, and, where a grossly

negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty not to exceed \$100,000 per violation may be assessed. Each day a violation continues shall constitute a separate offense.

(b) An individual who violates any requirement of this part or causes the violation of any such requirement may be subject to disqualification from safety-sensitive service in accordance with part 209 of this chapter.

(c) A person who knowingly and willfully falsifies a record or report required by this part may be subject to criminal penalties under 49 U.S.C. 21311.

[67 FR 75960, Dec. 10, 2002, as amended at 69 FR 30595, May 28, 2004; 72 FR 51198, Sept. 6, 2007; 73 FR 79704, Dec. 30, 2008]

§ 241.17 Preemptive effect.

Under 49 U.S.C. 20106, the regulations in this part preempt any State law, regulation, or order covering the same subject matter, except an additional or more stringent law, regulation, or order that is necessary to eliminate or reduce an essentially local safety hazard; is not incompatible with a law, regulation, or order of the United States Government; and does not impose an unreasonable burden on interstate commerce.

§ 241.19 Information collection.

(a) The information collection requirements of this part are being reviewed by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

(b) The information collection requirements are found in the following sections: § 241.7(a), (b), (c); 241.9(c); 241.11(c); 241.13(c); and 214.15. When an effective date for these sections is established, FRA will publish notice of that date in the FEDERAL REGISTER.