

May 30, 2023

Keith Creel  
President and Chief Executive Officer  
CPKC  
7550 Ogden Dale Road S.E.  
Calgary, AB T2C 4X9  
Canada

Dear Mr. Creel,

We are writing to you to highlight our concerns with CPKC's changes to tariff requirements for shippers of Toxic Inhalation Hazard (TIH)/Poison Inhalation Hazard (PIH) materials on the former KCSR network. Our respective organizations represent major CPKC customers that both ship and receive TIH/PIH materials. To prevent potential disruptions in critical supply chains, we urge you to delay the June 1, 2023, effective date for these tariff requirements by at least 60 days.

In an April 17, 2023, notice to shippers of TIH/PIH commodities on the KCSR network, CPKC announced revisions to KCSR Rules Publications 9011-G and 9012 that will become effective June 1. These changes include a requirement for each TIH/PIH customer to take out and maintain a \$100 million Commercial General Liability Insurance Policy and to fully indemnify the railroad for any incident that does not arise from the railroad's negligence or willful misconduct.

Consistent with the conditions adopted in the Surface Transportation Board's merger approval, CPKC is offering to all TIH/PIH shippers on the KCSR network the terms of a Settlement Agreement between CP and Bayer. However, this agreement does not alter the liability insurance requirements.

Many of our members have expressed concern that the June 1 deadline for obtaining the required liability insurance coverage is unworkable. No Class I carrier other than CP requires a coverage level comparable to the \$100 million requirement. By extending these terms throughout its newly merged network, CPKC is imposing requirements on a significant number of new shippers. With a limited number of insurance carriers in the market, hazardous materials shippers face significant challenges in obtaining coverage for their full range of products. In addition, the requirements to name the railroad as an additional insured and to include a "cross-liability" clause will require substantial changes to existing policies. CPKC must provide its customers with a reasonable amount of time to work through these challenges. We urge you to extend the deadline until at least July 31.

CPKC has indicated to customers that it may reject shipments of TIH/PIH materials from customers who are not fully in compliance with the requirements starting June 1. This threatens to disrupt critical supply chains because some customers on the former KCS network will have no transportation alternatives. TIH materials are the building blocks of chemistry and essential to nearly every aspect of our daily lives, including food production, water purification, energy production, and countless manufacturing processes. Therefore, it is essential to our nation's economy and public safety that TIH materials continue to move by rail without interruption.

We understand the desire of CPKC to implement consistent terms and conditions across its newly merged network and the need to appropriately manage risks associated with TIH/PIH transportation. However, CPKC's current timeline is unrealistic for shippers not previously subjected to CP's insurance requirements. We urge you to further engage with your customers to achieve a constructive solution.

Thank you for your attention to this urgent matter. Please feel free to contact any of us or Jeff Sloan at ACC ([jeffrey\\_sloan@americanchemistry.com](mailto:jeffrey_sloan@americanchemistry.com), 703-249-6710).

Sincerely,



Chris Jahn  
President and CEO  
American Chemistry Council



Eric Byer  
President and CEO  
National Association of Chemical Distributors



Frank Reiner  
President  
The Chlorine Institute



Nancy O'Liddy  
Executive Director  
National Industrial Transportation League



Corey Rosenbusch  
President and CEO  
The Fertilizer Institute

cc: Shanker Chalekode, CPKC  
Chairman Martin Oberman, STB  
Vice Chair Karen Hedlund, STB  
Patrick Fuchs, STB  
Robert Primus, STB  
Michelle Schultz, STB