

BEFORE THE  
FEDERAL RAILROAD ADMINISTRATION

---

DOCKET NO. FRA-2022-0019:  
CERTIFICATION OF DISPATCHERS

---

PETITION FOR RECONSIDERATION OF  
THE AMERICAN SHORT LINE AND REGIONAL RAILROAD ASSOCIATION

---

Pursuant to 49 C.F.R. § 211.29, the American Short Line and Regional Railroad Association (“ASLRRA”), on behalf of itself and its member railroads, petitions the Federal Railroad Administration (“FRA”) for reconsideration of the final rule establishing new certification requirements for dispatchers.<sup>1</sup>

ASLRRA is a non-profit trade association representing the interests of approximately 600 short line and regional railroad members in legislative and regulatory matters. Short lines operate 47,500 miles of track in the United States, or approximately 29% of the national freight network, touching in origin or destination one out of every five cars moving on the national railroad system, serving customers who otherwise would be cut off from the national railroad network. ASLRRA also endorses the petition for reconsideration submitted by the Association of American Railroads and the petition for reconsideration submitted by the Commuter Rail Coalition in this docket.

---

<sup>1</sup> 89 Fed. Reg. 44766 (May 21, 2024).

The final rule requires railroads to develop new certification programs for dispatchers. Each railroad’s certification program must have a formal process for training employees covered by the final rule and for verifying that each subject employee “has the requisite knowledge, skills, safety record, and ability to safely perform assigned tasks mandated by railroad rules and safety standards and Federal law and regulations prior to certification.”<sup>2</sup> The final rule requires Class II and III railroads to submit their programs to FRA for approval by November 12, 2025. Additionally, railroads are required to develop and implement a formal process for revoking the certification of employees covered by the final rules “who violate specified minimum requirements.”<sup>3</sup>

**FRA Should Amend the Rule to Allow for Changes in Railroad Ownership**

Section 245.103(b), *Certification program for new dispatching railroads*, states that “for each railroad that commences dispatching operations after July 22, 2024, the railroad shall submit its written dispatcher certification program to, and obtain approval from, FRA in accordance with the procedures and requirements contained in § 245.107, prior to commencing dispatching operations.” The regulation further states in § 103(f) that FRA will either issue a letter notifying the railroad that its program has been approved or issue a letter notifying the railroad that its program has been disapproved; both options typically issued within 120 days of the date the program was submitted to FRA.

Short line railroads change ownership much more frequently than Class I railroads. Some examples include a new owner purchasing a short line and continuing its existing operations, a new owner purchasing a short line and combining its operations with another

---

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

existing short line, or a new owner purchasing only a portion of a short line. Often, a railroad that is obtained by a new owner, or combined in whole or in part into an existing railroad, will be considered a new entity. Read very strictly, the final rule text in § 245.103 would mean that a railroad in this situation, with an existing and approved dispatching certification program, would have to resubmit its program and wait for FRA approval, resulting in an unnecessary disruption to railroad operations. ASLRRRA recommends that FRA remedy this confusion by modifying the text to specify, “for each railroad that commences new dispatching operations after July 22, 2024,” be required to comply with the section. This would clarify that existing, approved dispatching certification programs would transfer with the rail line to the new ownership, avoiding an unnecessary disruption to railroad operations.

**FRA Should Simplify the Certification Management Process for Employees of Contractors**

During the comment period, ASLRRRA stated that the rule would result in an inefficient waste of resources as dozens of railroads would have to certify the same individual, as many short line railroads utilize the same contractor(s) for dispatching services. In the final rule, FRA responded that § 245.125 provides a streamlined process allowing a railroad to rely on certain certification determinations made by another railroad. Unfortunately, § 245.125 does not fully resolve the issue.

Section 245.123 mandates that each railroad monitor the operational performance of its certified dispatchers by including procedures for giving each certified dispatcher at least one unannounced test and Federal rules, territorial and dispatch systems compliance each calendar year. This section does not permit a railroad to rely upon another railroad’s determination of a certified dispatcher’s operational performance. ASLRRRA is aware of at least one entity, Genesee & Wyoming, Inc. (“G&W”), a parent company to many ASLRRRA member railroads, that

dispatches 99 short line railroads. Read very strictly, this provision would mean that an individual employee from G&W certified to dispatch on each of the 99 short line railroads would spend 99 days out of the year on operational testing. This would result in an operationally impossible situation for the short line railroads that depend upon the services of contracted dispatchers. FRA should resolve this issue by modifying § 245.123 to allow a railroad to rely on operational testing performed by another railroad, similar to the flexibility granted by § 245.125.

\* \* \* \* \*

Respectfully submitted,



Sarah G. Yurasko  
General Counsel  
American Short Line and Regional Railroad Association  
50 F Street NW, Suite 500  
Washington, DC 20001  
(202) 585-3448

July 12, 2024