DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION

DOCKET NO. FRA-2022-0019,
NOTICE NO. 5
CERTIFICATION OF DISPATCHERS
NOTICE OF PROPOSED RULEMAKING

COMMENT SUBMITTED BY
THE ASSOCIATION OF AMERICAN RAILROADS,
AMERICAN SHORT LINE AND REGIONAL RAILROAD ASSOCIATION,
AMERICAN PUBLIC TRANSPORTATION ASSOCIATION, AND
COMMUTER RAIL COALITION

The Association of American Railroads (AAR), American Short Line and Regional Railroad Association (ASLRRA), American Public Transportation Association (APTA), and Commuter Rail Coalition (CRC) (jointly the Associations), on behalf of themselves and their member railroads, submit the following comments in response to the Federal Railroad Administration's (FRA's) May 15, 2026, Notice of Proposed Rulemaking (NPRM) proposing to rescind the May 21, 2024, final rule establishing dispatcher certification requirements in 49 CFR part 245.[1] The Associations support FRA's proposal to rescind part 245 in its entirety.

Statement of Interest

AAR is a nonprofit trade association whose membership includes freight railroads that operate the great majority of line-haul mileage, employ the great majority of industry workers, and account for the great majority of freight revenues of all railroads in the United

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[1] 91 FR 27901.

States; and passenger railroads that operate intercity passenger trains and provide commuter rail service.

ASLRRA is a nonprofit trade association representing over 500 Class II and Class III freight railroads throughout North America.

APTA is a nonprofit trade association representing the $102 billion public transportation industry, which directly employs more than 450,000 people and supports millions of private-sector jobs. APTA's membership includes passenger railroads (both intercity passenger and commuter railroads) and other organizations that support the planning, design, construction, maintenance, and operation of railroads.

CRC represents over twenty major commuter transit agencies along with industry suppliers who collectively employ thousands of workers.

The Associations' member railroads employ dispatchers or contract for dispatcher services and would be required to implement dispatcher certification programs unless part 245 is rescinded. The members of the Associations will be directly affected by whether FRA rescinds or retains dispatcher certification requirements.

Safety Data Continues to Demonstrate That There Is Not a Safety Justification for Implementing Dispatcher Certification Requirements.

FRA should finalize rescission because the record does not establish that dispatcher certification is necessary to reduce accidents or improve safety. The prior final rule never identified a meaningful safety problem that would be addressed by new regulations requiring dispatcher certification programs. There is no systemic dispatcher-related risk and no pattern of incidents that certification would address.

As noted when FRA initially proposed a certification requirement for dispatchers in 2023, the last decade was the safest on record for railroads. Over the last two years, railroads have seen continued safety improvements. 2025 was a record-setting year in many categories of railroad safety. Train accidents per million train-miles have dropped 36.9% since 2000, and 10.6% since 2020.[2] Mainline accidents per million mainline train-miles have followed the same trend, dropping 39% since 2000 and 3.3% since 2020.[3] Train collisions per million train-miles have dropped 65.5% since 2000.[4] In 2025, there were 0.11 train collisions per million train-miles, a 24.1% reduction since 2023.[5] Collisions are even rarer for mainline trains, ranging between 0.02 and 0.04 collisions per million mainline train-miles since 2020.[6] In 2025, the rate of train collisions per million mainline train-miles was 0.03.[7] Moreover, railroads have reduced employee casualty rates by 49.9% since 2000 and 14.5% since 2010.[8] Indeed, 2025 was the second-lowest year on record.

As noted in AAR's and ASLRRA's prior comments, the safety record for railroads compares favorably with other transportation modes and industries. Based on AAR's analysis of FRA and Bureau of Labor Statistics data, railroads have lower employee injury rates than other modes of transportation.

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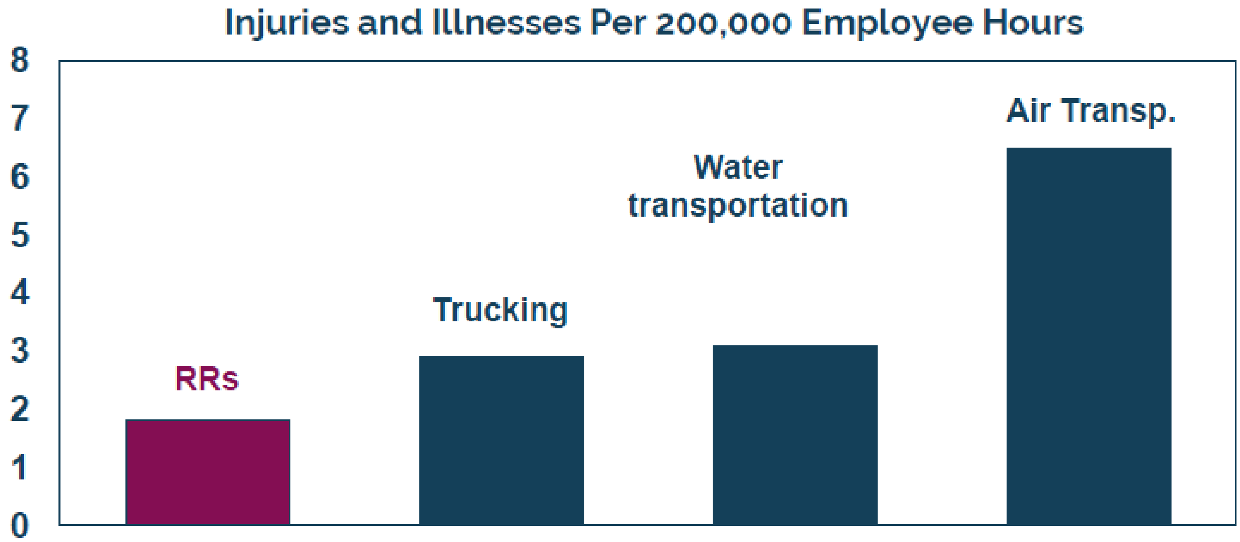
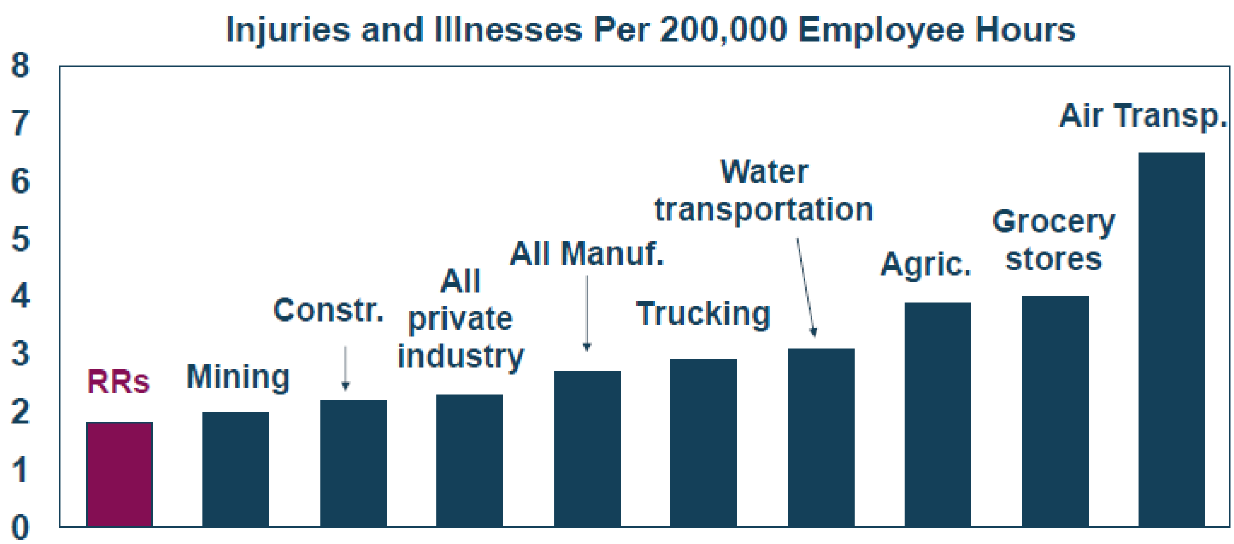
[2] AAR Analysis of FRA Rail Safety Overview Report (1.12), data through December 2025 (as of July 2026). *Note: Excludes grade crossing collisions*.
[3] *Ibid*.
[4] AAR Analysis of FRA Rail Safety Overview Report (1.12), data through December 2025 (as of July 2026).
[5] *Ibid*.
[6] *Ibid*.
[7] *Ibid*.
[8] AAR Analysis of FRA Rail Safety Overview Report (1.12), data through December 2025 (as of July 2026). *Note: Casualties include fatalities as well as injuries and occupational illnesses*.



Data are for 2024. Source: FRA (for railroads), Bureau of Labor Statistics (for other industries)

Data from FRA and the Bureau of Labor Statistics also continues to demonstrate that railroad employee injuries and illnesses are among the lowest across a broad swath of industries.



Data are for 2024. Source: FRA (for railroads), Bureau of Labor Statistics (for other industries)

This safety record is driven by a sustained railroad investment in technology and safety programs. Class I, passenger, and commuter railroads have invested billions of dollars in positive train control ("PTC") systems designed to prevent train-to-train collisions, overspeed derailments, incursions into established work zones, and movements through misaligned switches. According to FRA, PTC is now operational on approximately 58,000 freight and passenger route miles.[9] Railroads also have implemented robust programs for training, qualification, oversight, system safety, risk reduction, and fatigue management, both voluntarily and in response to FRA requirements. Short line railroads likewise participate in the Short Line Safety Institute's safety culture, hazardous materials, and leadership development programs. Together, these investments have materially advanced railroad safety.

The Cost-Benefit Analysis Strongly Supports Rescission.

FRA's current NPRM correctly concludes that the expected benefits of the 2024 final rule do not justify the expected costs. FRA states that the 2024 final rule was estimated to impose approximately $5.4 million in total 10-year costs, discounted at 7%, while yielding only approximately $0.6 million in total 10-year benefits on the same basis. FRA further states that, if rescission is finalized, the previously estimated costs would become cost savings.[10]

Those estimates alone support rescission. FRA concedes that it was not obligated to issue regulations that compelled railroads to implement new dispatcher certification

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[9] https://railroads.dot.gov/research-development/program-areas/train-control/ptc/positive-train-control-ptc.

[10] Taking this action to reduce unnecessary regulatory costs is consistent with Administration policy, as reflected in Executive Order 14192, "Unleashing Prosperity Through Deregulation," 90 FR 9065 (Jan. 31, 2025), and Executive Order 14219, "Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative," 90 FR 10583 (Feb. 19, 2025).

programs.[11] Where a rule is not required by statute and the agency's own analysis shows that quantified costs substantially exceed quantified benefits, the agency should not retain the rule absent a compelling evidentiary showing that additional benefits justify the burden.[12] No such showing exists here.

Moreover, the estimated costs of the prior final rule continue to be severely understated. In our earlier comments on the prior NPRM, AAR and ASLRRA explained that FRA understated the time and resources required to develop programs, create necessary technology systems, expand background and medical review capacity, monitor employees, conduct annual compliance testing, and manage administrative processes.[13] While FRA made some minimal adjustments at the final rule stage, it declined to incorporate most of the costs identified by AAR and ASLRRA, and ultimately FRA's estimated costs effectively remained unchanged from the NPRM to the final rule.

For example, in the earlier comments, AAR's members estimated that it would take at least 600 person-hours per Class I railroad to develop a new certification program, while ASLRRA estimated that it would take 550 person-hours to develop a template for Class II and Class III railroad members to use as a basis to develop a plan and an additional 19 hours for an individual railroad to develop a plan from the template. The comment also noted that if a short line or small railroad is not a member of ASLRRA, it likely would have to spend hundreds of hours developing a plan from scratch. However, in FRA's final

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[11] 91 FR at 27903.
[12] EO 12866 explicitly states that an agency shall "propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs." 58 FR 51735, 51736 (Oct. 4, 1993).
[13] https://www.regulations.gov/comment/FRA-2022-0019-0041.

regulatory analysis, it completely ignores the Class I railroads' 600-hour per railroad estimate. Moreover, it only partially accepts the ASLRRA estimate of a small railroad's burden associated with developing a plan from the ASLRRA templates, while noting that "[s]ome Class II and Class III railroads are not a member of ASLRRA; therefore, their burden may be slightly more."[14]

Similarly, FRA also underestimated the costs associated with monitoring compliance. In their prior comments, AAR and ASLRRA estimated that the average annual performance monitoring that would be required for each employee to comply with certification requirements would be approximately four hours per employee, which would total 10,920 person-hours (or 40 hours per supervisor) per year. This does not include an estimate of the feasibility or time spent monitoring contractors or the time spent documenting an inspection event in the system. However, FRA did not account for these costs, simply asserting that railroads "should already be monitoring their employees."[15] If FRA appropriately factored the costs identified by the AAR and ASLRRA into the analysis, the regulatory costs of the final rule would substantially exceed FRA's current estimates.

FRA's Purported Unquantified Safety Benefits Do Not Support Retaining the Rule.

FRA specifically requests public comment on the unquantified safety benefits referenced in the 2024 final rule, including accident cleanup, third-party property damage, lost lading, environmental damage, community economic impacts, and train delays.[16] Those categories describe potential downstream consequences of rail accidents

[14] *Ibid*.
[15] *Ibid*.
[16] 91 FR at 27903.

generally, but FRA does not demonstrate that dispatcher certification would materially reduce such railroad incidents or specifically reduce those consequences.[17]

The causal problem is straightforward. If the rule will not prevent dispatcher-related events, then the derivative claims about reduced cleanup costs, reduced property damage, or reduced train delay are necessarily speculative. Indeed, there is no evidence in the record that any such costs occurred based on the accident history cited by FRA. None of the accidents identified by FRA in the Supplemental Data to RIA submission in the docket resulted in a hazmat release. Additionally, approximately 79% of human factors-caused accidents occur on yard or industry track at average speeds of 5 mph, which substantially limits the likelihood of a derailment having downstream effects of the type described by FRA. The asserted unquantified benefits therefore do not cure the basic cost-benefit deficiency that FRA has identified in this NPRM.

Part 245 Is Duplicative of Existing Regulatory Requirements.

The Associations previously explained that dispatcher certification duplicates existing requirements in 49 CFR part 243, which governs training and qualification, and in 49 CFR parts 270 and 271, which govern system safety and risk reduction planning. Those regulations already require railroads and contractors, where applicable, to provide training, evaluate qualifications, address recurrent training needs, develop periodic oversight programs, identify risks, and implement mitigation measures.

FRA also already possesses robust accident-reporting and safety-data tools that allow it to evaluate hazards and direct regulatory or enforcement attention where

[17] See discussion below, "Part 245 Is Duplicative of Existing Regulatory Requirements."

warranted. That existing framework is better suited to addressing actual risk than a one-size-fits-all certification rule for dispatchers. As such, part 245 does not fill a meaningful gap. It simply adds a duplicative overlay to systems that already govern dispatcher competence and safety.

FRA Failed to Comply with § 402 of the Rail Safety Improvement Act of 2008 (RSIA) in Finalizing the Dispatcher Certification Requirements.

Section 402 of the RSIA required DOT to establish a certification program for conductors, but it did not impose the same mandate for dispatchers. Instead, Congress directed DOT to report to Congress on whether certification of certain additional crafts—including dispatchers—was necessary to improve safety, and authorized DOT to regulate only if the Secretary made that determination. As the AAR and ASLRRA previously explained, the 2015 report to Congress did not determine that dispatcher certification was necessary; it stated only that dispatchers were "potentially" a viable candidate for certification. First, § 402 contemplates that the determination will be made through the report-to-Congress process. Second, the FRA Administrator's determination was not based on reasoned decision-making, as discussed at length in the AAR and ASLRRA joint comment on the prior rulemaking.[18] Additionally, FRA's general rail-safety authority does not allow it to bypass the more specific statutory framework of the RSIA.

[18] https://www.regulations.gov/comment/FRA-2022-0019-0041.

The Issues Raised in the Petitions for Reconsideration Further Demonstrate that the Rule Should Be Rescinded.

FRA also welcomes comment on the issues raised in the petitions for reconsideration. Those issues independently reinforce why full rescission is the proper result.

First, the contractor-certification problem remains fundamental. Many short line and commuter operations rely on contractors that dispatch for multiple railroads. Requiring each railroad to certify the same contractor employees would be duplicative, inefficient, and potentially inconsistent. The contractor is ordinarily in the best position to train, evaluate, and maintain records for its own employees. The rule's contrary structure would burden the smallest carriers most severely while producing no demonstrated safety gain. The rule further confuses compliance by placing the responsibility for drug and alcohol testing and training on the railroad, while parts 219 and 243, respectively, allow contractors to execute testing programs for their own employees. Similarly, if railroads hold certificates for contracted employees, there is a direct conflict with the confidentiality requirements of 49 CFR 40.321.

Second, the absence of a definite FRA approval timeline puts railroads in regulatory limbo, and the problem is exacerbated by FRA's failure to establish a sensible post-approval implementation schedule in the regulations. As AAR explained in its petition for reconsideration, railroads cannot reasonably plan implementation, training calendars, staffing, or technology investments if FRA may withhold approval indefinitely while stating only that a decision letter will typically be issued within a given period.[19] Similarly, CRC noted in its petition for reconsideration that most public agencies must budget, plan for staff augmentation, and procure support services (e.g., testing and medical review officer support) over a year in advance to secure funding sources and governance board approval.[20] However, the rule is written in a way that potentially puts railroads in a serious regulatory predicament because compliance is likely not possible within the timeframe contemplated by FRA. This defect in the rule is especially noteworthy because the dispatcher certification rule departs from the existing regulatory structure used elsewhere in FRA's certification framework.

Third, the concept of material modification is overbroad. The 2024 rule would sweep in minor or administrative changes that do not affect safety, discouraging railroads from improving training content, revising test questions, or adopting new methods of delivery. A regulatory approach that slows routine safety-enhancing improvements unless or until FRA separately approves them is not sound policy.

Fourth, the annual unannounced compliance-testing requirement would impose significant burdens without any demonstrated corresponding benefit. For short lines using the same contractor dispatchers across multiple properties, the requirement would multiply duplicative testing obligations. If the testing is cursory, it adds little value; if it is extensive, the time and labor costs are far greater than FRA previously assumed.

[19] https://www.regulations.gov/document/FRA-2022-0019-0048.
[20] https://www.regulations.gov/document/FRA-2022-0019-0047.

Finally, short line ownership changes further illustrate the mismatch between the rule and real-world operations. As ASLRRA explained in its petition for reconsideration, frequent ownership changes in the short-line sector could require unnecessary resubmissions and create operational uncertainty even where a railroad is already operating under an approved program.[21]

FRA Should Reject the Alternative of Merely Extending Compliance Deadlines.

FRA asks whether, if it ultimately decides not to rescind the rule in full, it should instead extend the compliance dates by approximately six to twelve months. The Associations submit that this alternative should be rejected. An extension would not solve any of the rule's core problems. It would not supply the missing safety justification. It would not fix the cost-benefit imbalance that FRA has already identified. It would not address the contractor-certification problem, the undefined approval timeline, the overbreadth of material modification, or the overlap with existing regulations. It would merely postpone the burdens and uncertainty associated with a rule that should be rescinded now. Because FRA is already exercising enforcement discretion and has placed review of certification programs on hold during this rescission proceeding, final rescission would provide clarity and eliminate unnecessary burden. A temporary extension, by contrast, would prolong uncertainty without curing the underlying defects.

Conclusion

For these reasons, the Associations respectfully urge FRA to finalize the proposed rescission of 49 CFR part 245 in its entirety. The record demonstrates that dispatcher

[21] https://www.regulations.gov/document/FRA-2022-0019-0050.

certification is not necessary to improve safety, that the expected benefits do not justify the expected costs, and that the 2024 final rule would impose duplicative and unworkable burdens without meaningful incremental safety gains.

Respectfully submitted,

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August 13, 2026