

**DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION**

**DOCKET NO. FRA-2022-0020,
NOTICE NO. 5
CERTIFICATION OF SIGNAL EMPLOYEES
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, 2024, Notice of Proposed Rulemaking (NPRM) proposing to rescind the May 21, 2024, final rule establishing signal employee certification requirements in 49 CFR part 246.¹ The Associations support FRA's proposal to rescind part 246 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

¹ 91 FR 27905.

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' members include railroads that employ signal employees, as well as companies that provide contract support for signal and train control technology services and would be required to implement signal employee certification programs unless part 246 is rescinded. The members of the Associations will be directly affected by whether FRA rescinds or retains signal employee certification requirements.

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

FRA should finalize rescission because the record does not establish that signal employee 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 signal employee certification programs. There is no systemic signal employee-related risk and no pattern of incidents that certification would address.

As noted when FRA initially proposed a certification requirement for signal employees 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 Looking solely at signal-caused accidents, there have been a total of five main track signal-caused accidents over the past three years (2023-2025).⁴ Indeed, a review of FRA's accident data over the last ten years (2016-2025), shows that signal-caused main track accidents occur less than once per every 267 million mainline train-miles.⁵ Train collisions per million train-miles have dropped 65.5% since 2000.⁶ In 2025, there were 0.11 train collisions per million train-miles, a 24.1% reduction compared to 2023.⁷ Collisions are even rarer for mainline trains, ranging between 0.02 and 0.04 collisions per million mainline train-miles since 2020.⁸ In 2025, the rate of train collisions per million mainline train-miles was 0.03.⁹ Moreover, railroads have reduced employee

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.*

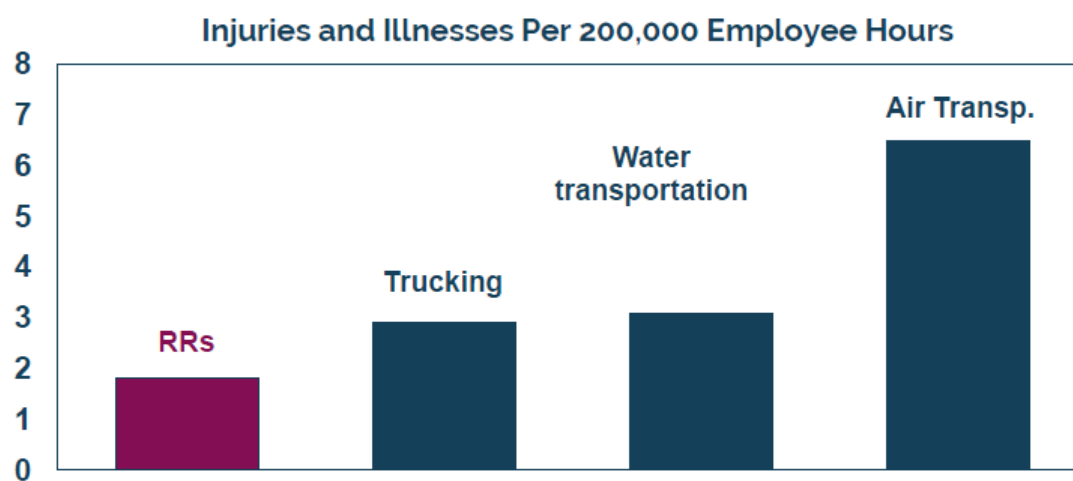
⁷ *Ibid.*

⁸ *Ibid.*

⁹ *Ibid.*

casualty rates by 49.9% since 2000 and 14.5% since 2010.¹⁰ Indeed, 2025 was the second-lowest year on record.

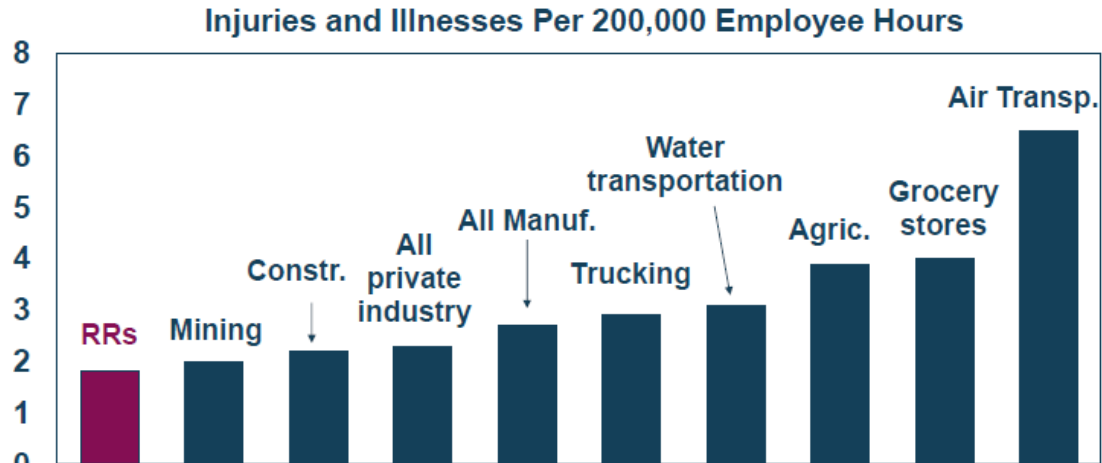
As noted in AAR's and ASLRRA's prior comments, the safety record for railroads compares favorably with other transportation modes and industries. Based on AAR's analysis of FRA and Bureau of Labor Statistics data, railroads have lower employee injury rates than other modes of transportation.



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.

¹⁰ 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)

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.¹¹ 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.

¹¹ <https://railroads.dot.gov/research-development/program-areas/train-control/ptc/positive-train-control-ptc>.

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 \$9.4 million in total 10-year costs, discounted at 7%, while yielding only approximately \$2.9 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.¹²

Those estimates alone support rescission. FRA concedes that it was not obligated to issue regulations that compelled railroads to implement new signal employee certification programs.¹³ 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.¹⁴ 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 ASLRRRA explained that FRA understated the time and resources required to develop programs, create necessary technology systems, expand background and medical review capacity, monitor

¹² 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).

¹³ 91 FR at 27906-27907.

¹⁴ 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).

employees, conduct annual compliance testing, and manage administrative processes.¹⁵

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 changed modestly 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 regulatory impact 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."¹⁶

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

¹⁵ <https://www.regulations.gov/document/FRA-2022-0020-0037>.

¹⁶ *Ibid.*

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 fully account for these costs, instead suggesting that the rule would require 17 minutes per year of monitoring per signal employee, which “accounts for 15 minutes of additional tasks that would not have been performed otherwise, and 2 minutes per year for paperwork related to this provision.”¹⁷ The Associations note that FRA does not explain how it derived these minimal figures. However, 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.¹⁸ Those categories describe potential downstream consequences of rail accidents generally, but FRA does not demonstrate that signal employee certification would materially reduce such railroad incidents or specifically reduce those consequences.¹⁹

The causal problem is straightforward. If the rule will not prevent signal employee-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

¹⁷ *Ibid.*

¹⁸ 91 FR at 27906.

¹⁹ See discussion below, “Part 246 Is Duplicative of Existing Regulatory Requirements.”

in the record that any such costs occurred based on the accident history cited by FRA. More than 95% of signal-caused accidents occur on yard or industry track at average speeds of 5 mph, which substantially limits the likelihood of a derailment having significant downstream effects of the type described by FRA. Of the accidents identified by FRA in the Supplemental Data to RIA submission in the docket, only one resulted in a hazmat release. However, AAR's analysis of the incident revealed that it was caused when the process control system allowed the automated switch to be thrown before the derailling car had completed its transition, which is not a situation that would be addressed by signal employee certification. The asserted unquantified benefits therefore do not cure the basic cost-benefit deficiency that FRA has identified in this NPRM.

Part 246 Is Duplicative of Existing Regulatory Requirements.

The Associations previously explained that signal employee 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 warranted. That existing framework is better suited to addressing actual risk than a one-size-fits-all certification rule for signal employees. As such, part 246 does not fill a

meaningful gap. It simply adds a duplicative overlay to systems that already govern signal employee competence and safety.

FRA Failed to Comply with § 402 of the Rail Safety Improvement Act of 2008 (RSIA) in Finalizing the Signal Employee 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 signal employees. Instead, Congress directed DOT to report to Congress on whether certification of certain additional crafts—including signal employees—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 signal employee certification was necessary; it stated only that signal employees were “potentially” a viable candidate for certification. FRA’s later assertion in the NPRM that the Administrator had determined certification was necessary does not cure that defect for two reasons. 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.²⁰ Additionally, FRA’s general rail-safety authority does not allow it to bypass the more specific statutory framework of the RSIA.

²⁰ <https://www.regulations.gov/comment/FRA-2022-0020-0035>.

**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 and supplier personnel that perform signal employee tasks 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 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.²¹ 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.²² 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 signal employee 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 signal employees 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.

²¹ <https://www.regulations.gov/document/FRA-2022-0020-0040>.

²² <https://www.regulations.gov/document/FRA-2022-0020-0039>.

Fifth, FRA’s definition of “signal employee” departs from the specific statutory meaning set forth in 49 U.S.C. § 21101, which limits the term to individuals “engaged in installing, repairing, or maintaining signal systems.” By contrast, FRA’s broader regulatory definition—covering activities such as troubleshooting, testing, or even incidental interaction with signal systems—extends beyond these core functions and risks sweeping in employees, such as mechanical or back-office personnel, who do not perform the hands-on installation, repair, or maintenance work contemplated by the statute. The subjective regulatory definition will further exacerbate the cost of implementing such programs as railroads and contractors will be impelled to cover employees who perform only peripheral tasks but are not, themselves, signal employees (e.g., mechanics).

Sixth, FRA’s definition of “signal system” in § 246.7 improperly expands beyond the statutory definition in 49 U.S.C. § 20501 by including equipment and technologies that are not integrated with or connected to signal or train control systems. While Congress limited “signal systems” to specific safety-critical systems such as block signals, interlockings, and train control devices, FRA’s rule sweeps in a wide array of additional components—including wayside detection devices in non-signaled territory—despite such equipment historically falling outside signal regulations and not being covered under existing rules in part 236. FRA has provided no evidence as to the benefit of incorporating such ancillary devices under the same scope as functions that relate to systems that have an essential and direct role in the safe operation of a railroad.

Finally, short line ownership changes further illustrate the mismatch between the rule and real-world operations. As ASLRRA explained in its petition, 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.²³

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 246 in its entirety. The record demonstrates that signal employee certification is not necessary to improve safety, that the expected benefits do not justify

²³ <https://www.regulations.gov/document/FRA-2022-0020-0042>.

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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