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4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 245

[Docket No. FRA-2022-0019, Notice No. 5]

RIN 2130-AD03

Certification of Dispatchers

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document responds to petitions for reconsideration of FRA's May 21, 2024 final rule addressing the Certification of Dispatchers. Based on FRA's review and analysis of the issues raised in the petitions for reconsideration, this document proposes to rescind the final rule.

DATES: Comments on the proposed rule must be received by [**INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**]. FRA may consider comments received after that date, but only to the extent practicable.

ADDRESSES: *Comments*: Comments related to Docket No. FRA-2022-0019 may be submitted by going to *https://www.regulations.gov* and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name, docket number (FRA-2022-0019), and Regulatory Identification Number (RIN) for this rulemaking (2130-AD03). All comments received will be posted without change to https://www.regulations.gov; this includes any personal information. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to https://www.regulations.gov and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Curtis Dolan, Railroad Safety Specialist, Dispatch Operating Practices, FRA, telephone: (470) 522-6633, email: *curtis.dolan@dot.gov*; or Michael C. Spinnicchia, Attorney Adviser, FRA, telephone: (202) 713-7671, email: *michael.spinnicchia@dot.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On May 31, 2023, FRA published an NPRM proposing the establishment of dispatcher certification requirements in 49 CFR part 245 (part 245).[1] The NPRM was issued in response to section 402 of the Rail Safety Improvement Act of 2008 (RSIA), Pub. L. 110-432, 122 Stat. 4848, 4884 (Oct. 16, 2008) (49 U.S.C. 20162 note), which required the Secretary of Transportation (Secretary) to submit a report to Congress addressing whether certification of "certain crafts or classes" of railroad employees or contractors, including railroad dispatchers, was necessary to "reduce the number and rate of accidents and incidents or to improve railroad safety." If the Secretary determined it was necessary to require the certification of certain crafts or classes to improve railroad safety, section 402 of the RSIA stated the Secretary *may* prescribe such regulations. On November 4, 2015, the Secretary submitted a report to Congress stating that, based on FRA's preliminary research, dispatchers were one of the most viable crafts for certification.[2]

FRA published a final rule on May 21, 2024, requiring railroads to develop written programs for certifying individuals who work as dispatchers on their territories

[1] 88 FR 35574 (May 31, 2023).
[2] FRA-2022-0019-0001.

and to submit those written certification programs to FRA for approval prior to implementation.[3] Under this rule, railroads are required to have formal processes for training prospective dispatchers, as well as verifying that each dispatcher has the requisite knowledge, skills, safety record, and abilities to perform all of the safety-related dispatcher duties mandated by Federal laws and regulations, prior to certification. In addition, railroads are required to have formal processes for revoking certification for dispatchers who violate specified minimum requirements.

This rule requires all Class I railroads (including the National Railroad Passenger Corporation (Amtrak)) and railroads providing commuter service to submit their certification programs to FRA by March 17, 2025.[4] Class II and Class III railroads have until November 12, 2025 to submit their programs to FRA under the current rule.[5] Any railroad that commences dispatching operations after July 22, 2024 (the effective date of the final rule), must submit its dispatcher certification program to, and obtain approval from, FRA prior to commencing dispatching operations.[6] Furthermore, as of March 17, 2025, railroads are not allowed to permit or require that a person perform service as a dispatcher unless such person is certified through the designation system described in 49 CFR 245.105(c)-(d).[7]

On July 12, 2024, the Association of American Railroads (AAR), the American Short Line and Regional Railroad Association (ASLRRA), and the Commuter Rail Coalition (CRC) filed timely petitions for reconsideration of the Dispatcher Certification final rule.[8] Subsequently, on August 6, 2024, the American Public Transportation

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[3] 89 FR 44766 (May 21, 2024).
[4] 49 CFR 245.103(a)(1).
[5] 49 CFR 245.103(a)(2).
[6] 49 CFR 245.103(b).
[7] 49 CFR 245.105(e). FRA is exercising its enforcement discretion and not taking enforcement action on the current deadlines found in 49 CFR 245.103(a)-(b) and 245.105(c)-(e).
[8] FRA-2022-0019-0048; FRA-2022-0019-0050; FRA-2022-0019-0047. ASLRRA endorsed AAR and CRC's petitions. CRC endorsed AAR and ASLRRA's petitions. AAR endorsed ASLRRA and CRC's petitions with respect to the issue of allowing contractors to certify dispatchers.

Association (APTA) submitted a letter urging FRA to extend the deadline for commuter railroads to submit their certification programs.[9] This letter was not submitted by the deadline for submitting petitions for reconsideration. However, FRA is treating APTA's letter as a petition for reconsideration.

FRA issued a response to these petitions for reconsideration on January 17, 2025. The response stated that FRA was granting APTA's petition and would initiate a rulemaking to extend the deadlines for all railroads to submit their dispatcher certification program to FRA by six months. The response also stated FRA's intent to grant in part and deny in part AAR, ASLRRA, and CRC's petitions.[10]

On February 6, 2025, representatives from AAR, ASLRRA, and CRC met with FRA to discuss their concerns with part 245 which they raised in their petitions for reconsideration.[11] On March 14, 2025, FRA issued a follow-up letter to its initial response to the petitions where it announced its intention to initiate a rulemaking to extend the compliance dates in part 245 by one year, rather than the six months considered previously. The letter also stated that FRA would not take enforcement action against railroads for failing to meet the current deadlines in part 245. In addition, the letter stated that, after further consideration, and consistent with Executive Order (E.O.) 14219, Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative,[12] FRA was reopening its review and analysis of the issues raised in the petitions.[13]

In this NPRM, FRA is proposing to rescind part 245 in its entirety. While FRA is undertaking this rulemaking to rescind part 245 in its entirety, it will place on hold its

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[9] FRA-2022-0019-0049.
[10] FRA-2022-0019-0055.
[11] A record of this meeting was placed in the docket for this rulemaking on regulations.gov. FRA-2022-0019-0056. At this meeting, AAR, ASLRRA, and CRC presented a PowerPoint presentation which can also be found in the rulemaking docket on regulations.gov. FRA-2022-0019-0057.
[12] 90 FR 10583 (Feb. 25, 2025).
[13] FRA-2022-0019-0058.

review of any dispatcher certification programs it has received or will receive during the pendency of this rulemaking. In addition, during the pendency of this rulemaking, FRA will continue to exercise its enforcement discretion and will not take enforcement action based on the current deadlines found in 49 CFR 245.103(a)-(b) and 245.105(c)-(e).

II. Section-by-Section Analysis

As noted above, FRA received petitions for reconsideration of the May 21, 2024 final rule on dispatcher certification from AAR, ASLRRA, CRC, and APTA. These petitions asked FRA to revise part 245 to address a range of concerns presented by the final rule. For example, CRC requested that part 245 be amended to allow contractors to certify dispatchers because: (1) part 245 places the obligations of certification on parties that do not have the necessary resources or expertise to certify dispatchers, such as small commuter railroads; (2) contractors are in a better position to track, monitor, and keep records related to their employees; and (3) requiring multiple railroads to carry out the same task would lead to duplicative work and could result in different railroads reaching different conclusions about the same individual.[14] ASLRRA's petition expressed concern that the requirement that railroads provide each certified dispatcher with at least one unannounced compliance test each year would result in an inefficient waste of resources. Because many short line railroads use the same contractor(s) for dispatching services, ASLRRA asserted that dozens of railroads would have to certify the same individual and these dispatchers would have to spend numerous days each year on operational testing.[15] AAR raised concerns that part 245 did not provide a definitive timeline for when FRA would issue decisions approving or disapproving a railroad's certification programs. AAR contended such potential delays could create confusion and make it impossible for

[14] FRA-2022-0019-0047.
[15] FRA-2022-0019-0050.

railroads to plan for implementation of their certification programs, which would ultimately affect railroads' ability to hire, train, and qualify new dispatchers.[16]

In addition, AAR expressed concerns about the estimated costs of part 245 being greater than the estimated benefits.[17] FRA estimated the costs and benefits of the 2024 final rule and determined the total 10-year costs were estimated to be $5.4 million (Present Value (PV), 7 percent), and total 10-year benefits were estimated to be $0.6 million (PV, 7 percent). Net costs of the 2024 rule were estimated to be $4.8 million (PV, 7 percent) and annualized net costs were estimated to be $0.7 million (PV, 7 percent).

Lastly, the petitions raised issues regarding changes in ownership for short line railroads and the rule's definition of a "material modification." Regarding ownership changes, ASLRRA noted that short line railroads change ownership more frequently than Class I railroads and would be affected adversely by § 245.103(b). Specifically, ASLRRA alleged that a railroad with a program approved previously may have to stop operations if there is a change in ownership while it resubmits its program and waits for FRA approval, which would result in an unnecessary disruption to railroad operations.[18] AAR contended that FRA's definition of "material modification" was overbroad and should only apply to significant content-based changes to a railroad's program. AAR noted that the burden of getting minor adjustments to a program approved by FRA would discourage railroads from investing in new ways to train their dispatchers and from making other changes to enhance their programs.[19]

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[16] FRA-2022-0019-0048.
[17] FRA-2022-0019-0048.
[18] FRA-2022-0019-0050.
[19] FRA-2022-0019-0048.

All four petitions for reconsideration are available to the public in the docket for this rulemaking which can be found at https://www.regulations.gov.[20] FRA welcomes comments from the public on any of the issues raised in these petitions.

Based on FRA's review of these issues raised in the petitions for reconsideration, and in accordance with E.O. 14219, FRA has concluded preliminarily that rescission of the 2024 final rule in its entirety is warranted because the expected benefits do not justify the expected costs. In the 2024 final rule, FRA discussed unquantified safety benefits relating to "accident clean up, third party property damage, lost lading, environmental damage, loss of economic activity to the community, and train delays." FRA is requesting public comment or additional information on these unquantified safety benefits. FRA's proposal to rescind part 245 in its entirety would eliminate all the issues and concerns that were raised in the petitions for reconsideration and would eliminate the estimated costs associated with the 2024 final rule.

While FRA has the statutory authority to issue regulations requiring dispatcher certification, it is not obligated to issue such regulations. Specifically, the RSIA provides that "[t]he Secretary *may* prescribe regulations requiring the certification of certain crafts or classes of employees that the Secretary determines . . . are necessary to reduce the number and rate of accidents and incidents or to improve railroad safety."[21] Because this statute is permissive with respect to establishing additional certification requirements for railroad crafts other than locomotive engineers and conductors, FRA is under no statutory obligation to require the certification of dispatchers. Indeed, given the above preliminary determination that rescission of the 2024 rule is warranted because the expected benefits do not justify the expected costs, it is in the interest of the public for FRA to decline to require certification of dispatchers.

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[20] FRA-2022-0019-0047; FRA-2022-0019-0048; FRA-2022-0019-0049; FRA-2022-0019-0050.
[21] RSIA, section 402 (*emphasis added*).

For the reasons stated above, FRA proposes to rescind part 245 in its entirety. If FRA issues a final rule that rescinds part 245, FRA will continue to gather data on this issue and may reassess in the future whether certification requirements for dispatchers are warranted. Alternatively, if, after review of any comments received in response to this NPRM, FRA decides not to rescind this rule in its entirety, FRA proposes to extend the compliance dates for this rule to provide railroads with additional time to come into compliance with part 245. The proposed extension could be for a period of approximately six to twelve months from the effective date of a new final rule and would provide the regulated community assurance that they would not be liable for noncompliance with the existing regulation, should FRA ultimately determine not to finalize the rescission of part 245.

III. Regulatory Impact and Notices

A. Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FRA has considered the impact of this NPRM under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, and DOT Regulatory Policies and Procedures. The Office of Management and Budget (OMB) Office of Information and Regulatory Affairs determined that this NPRM is not a significant regulatory action under section 3(f) of E.O. 12866.

FRA is proposing to rescind the May 21, 2024 final rule addressing the Certification of Dispatchers. FRA has analyzed the potential costs and benefits of this proposed rule.

In the 2024 final rule, FRA estimated 10-year costs of $5.4 million (PV, 7 percent). If FRA finalizes the proposed rescission of that final rule, those costs would become a cost savings. Table 1 shows the total 10-year cost savings of this proposed rule.

Table 1: Total 10-Year Cost Savings (2020 Dollars)

10-Year Cost Savings ($)	Present Value 7% ($)	Present Value 3% ($)	Annualized 7% ($)	Annualized 3% ($)
6,973,560	5,414,022	6,214,626	770,835	728,544

In the 2024 final rule, FRA estimated 10-year benefits of $0.6 million (PV, 7 percent), which would no longer be realized if the 2024 final rule is rescinded.

FRA recognizes there may be some railroads who may have begun to comply with the 2024 final rule and therefore, incurred costs. However, FRA expects that the cost savings that would be realized from rescinding the 2024 rule ultimately are greater than the foregone safety benefits.

B. Executive Order 14192 (Unleashing Prosperity Through Deregulation)

E.O. 14192 (90 FR 9065, Jan. 31, 2025), Unleashing Prosperity Through Deregulation, requires that for "each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination."[22] Implementation guidance for E.O. 14192 issued by OMB (Memorandum M-25-20, Mar. 26, 2025) defines two different types of E.O. 14192 actions: an E.O. 14192 deregulatory action, and an E.O. 14192 regulatory action.[23]

An E.O. 14192 deregulatory action is defined as "an action that has been finalized and has total costs less than zero." This proposed rule, if finalized as proposed, is expected to have total costs less than zero or negligible costs, and therefore it would be considered an E.O. 14192 deregulatory action. The rescission of the 2024 final rule is expected to result in an estimated 10-year cost savings of $5.4 million, discounted at 7 percent.

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[22] Executive Office of the President. *Executive Order 14192 of January 31, 2025*. *Unleashing Prosperity Through Deregulation*. 90 FR 9065-9067. Feb. 6, 2025.
[23] Executive Office of the President. OMB. *Guidance Implementing Section 3 of Executive Order 14192, Titled "Unleashing Prosperity Through Deregulation."* Memorandum M-25-20. Mar. 26, 2025.

C. Regulatory Flexibility Act and Executive Order 13272

The Regulatory Flexibility Act ((RFA), 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996,[24] and E.O. 13272 (67 FR 53461, Aug. 16, 2002) require agency review of proposed and final rules to assess their impacts on small entities. When an agency issues a rulemaking proposal, the RFA requires the agency to "prepare and make available for public comment an initial regulatory flexibility analysis" which will "describe the impact of the proposed rule on small entities."[25] Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

FRA certified that the 2024 final rule for Certification of Dispatchers[26] will not have a significant economic impact on a substantial number of small entities. Although this proposed rule, which would rescind that final rule, would impact a substantial number of small entities, it would provide a positive impact by removing all requirements related to certification of dispatchers. FRA recognizes there may be some small entities who may have begun to comply with the 2024 final rule and therefore, incurred costs. However, FRA expects that the cost savings realized from rescinding this rule would be greater than any potential safety benefits. Therefore, this proposed rule would not have a significant impact on a substantial number of small entities, and FRA expects to certify that this rule would not have a significant economic impact on a substantial number of small entities.

In accordance with section 213(a) of SBREFA (Pub. L. No. 104–121, 110 Stat. 857), FRA wants to assist small entities in understanding this proposed rule so they can better evaluate its effects on themselves and participate in the rulemaking initiative. If

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[24] Pub. L. No. 104–121, 110 Stat. 857 (Mar. 29, 1996).
[25] 5 U.S.C. 603(a).
[26] 89 FR 44766, 44797 (May 21, 2024).

the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

D. Paperwork Reduction Act

There is no new collection of information requirements contained in this proposed rule and, in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*, an information collection submission to OMB is not required. The recordkeeping and reporting requirements already contained in the 2024 Certification of Dispatchers final rule, 89 FR 44766 (May 21, 2024), were approved by OMB on June 6, 2024. With the proposed rescission of this rule, FRA intends to discontinue the associated information collection, OMB Control No. 2130-0637, when a final rule is published.

E. Environmental Assessment

FRA has analyzed this proposed rule for the purposes of the National Environmental Policy Act of 1969 (NEPA). In accordance with 42 U.S.C. 4336 and DOT NEPA Order 5610.1D, FRA has determined that this rule is categorically excluded pursuant to 23 CFR 771.116(c)(15). This rulemaking is not anticipated to result in any environmental impacts, and there are no unusual or extraordinary circumstances present in connection with this rulemaking.

F. Federalism Implications

This proposed rule will not have a substantial effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Thus, in accordance with E.O. 13132, "Federalism" (64 FR 43255, Aug. 10, 1999), preparation of a Federalism Assessment is not warranted.

G. Unfunded Mandates Reform Act of 1995

This proposed rule would not result in the expenditure, in the aggregate, of $100,000,000 or more, adjusted for inflation, in any one year by State, local, or Indian Tribal governments, or the private sector. Thus, consistent with section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1532), FRA is not required to prepare a written statement detailing the effect of such an expenditure.

H. Energy Impact

E.O. 13211 requires Federal agencies to prepare a Statement of Energy Effects for any "significant energy action."[27] FRA has evaluated this proposed rule in accordance with E.O. 13211 and determined that this proposed rule is not a "significant energy action" within the meaning of E.O. 13211.

I. Executive Order 13175 (Tribal Consultation)

FRA has evaluated this proposed rule in accordance with the principles and criteria contained in E.O. 13175, Consultation and Coordination with Indian Tribal Governments (Nov. 6, 2000). The proposed rule would not have a substantial direct effect on one or more Indian tribes, would not impose substantial direct compliance costs on Indian tribal governments, and would not preempt tribal laws. Therefore, the funding and consultation requirements of E.O. 13175 do not apply, and a tribal summary impact statement is not required.

J. International Trade Impact Assessment

The Trade Agreement Act of 1979[28] prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the U.S. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. This rulemaking is

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[27] 66 FR 28355 (May 22, 2001).

[28] 19 U.S.C. ch. 13.

purely domestic in nature and is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

K. Privacy Act Statement

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to http://www.regulations.gov, as described in the system of records notice, DOT/ALL-14 FDMS, accessible through www.transportation.gov/privacy. To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

L. Rulemaking Summary

As required by 5 U.S.C. 553(b)(4), a summary of this rule can be found at regulations.gov, Docket No. FRA-2022-0019, in the SUMMARY section of this proposed rule.

List of Subjects in 49 CFR Part 245

Administrative practice and procedure, Dispatcher, Penalties, Railroad employees, Railroad operating procedures, Railroad safety, Reporting and recordkeeping requirements.

PART 245—[REMOVED]

For the reasons stated in the preamble, under the authority of E.O. 14219 and 49 U.S.C. 20103, FRA proposes to remove 49 CFR part 245.

Issued in Washington, DC.

David A. Fink,
Administrator.

[FR Doc. 2026-09791 Filed: 5/14/2026 8:45 am; Publication Date: 5/15/2026]

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4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 246

[Docket No. FRA-2022-0020, Notice No. 5]

RIN 2130-AD04

Certification of Signal Employees

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document responds to petitions for reconsideration of FRA's May 21, 2024 final rule addressing the Certification of Signal Employees. Based on FRA's review and analysis of the issues raised in the petitions for reconsideration, this document proposes to rescind the final rule.

DATES: Written comments on the proposed rule must be received by [**INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**]. FRA may consider comments received after that date, but only to the extent practicable.

ADDRESSES: *Comments*: Comments related to Docket No. FRA-2022-0020 may be submitted by going to *https://www.regulations.gov* and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name, docket number (FRA-2022-0020), and Regulatory Identification Number (RIN) for this rulemaking (2130-AD04). All comments received will be posted without change to https://www.regulations.gov; this includes any personal information. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to https://www.regulations.gov and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Cory Johnson, Railroad Safety Specialist, Signal, Train Control, and Crossings Division, FRA, telephone: (701) 516-6594, email: *cory.johnson@dot.gov*; or Kathryn Gresham, Attorney Adviser, FRA, telephone: (202) 577-7142, email: *kathryn.gresham@dot.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On May 31, 2023, FRA published an NPRM proposing the establishment of signal employee certification requirements in 49 CFR part 246 (part 246).[1] The NPRM was issued in response to section 402 of the Rail Safety Improvement Act of 2008 (RSIA) Pub. L. 110-432, 122 Stat. 4848, 4884 (Oct. 16, 2008) (49 U.S.C. 20162 note), which required the Secretary of Transportation (Secretary) to submit a report to Congress addressing whether certification of "certain crafts or classes" of railroad employees or contractors, including signal repair and maintenance employees, was necessary to "reduce the number and rate of accidents and incidents or to improve railroad safety." If the Secretary determined it was necessary to require the certification of certain crafts or classes to improve railroad safety, section 402 of the RSIA stated the Secretary *may* prescribe such regulations. On November 4, 2015, the Secretary submitted a report to Congress stating that, based on FRA's preliminary research, signal-repair employees were one of the most viable railroad crafts for certification.[2]

FRA published a final rule on May 21, 2024, ("2024 final rule") requiring railroads to develop written programs for certifying signal employees who work on signal

[1] 88 FR 35632 (May 31, 2023).
[2] FRA-2022-0020-0001.

systems and signal-related technology on their networks.[3] Under this rule, railroads are required to have formal processes for training signal employees, as well as verifying that each signal employee has the requisite knowledge, skills, safety record, and abilities to perform all of the safety-related signal employee duties mandated by Federal laws and regulations prior to certification. In addition, railroads are required to have formal processes for revoking certification for signal employees who violate specified minimum requirements.

This rule requires all Class I railroads (including the National Railroad Passenger Corporation (Amtrak)) and railroads providing commuter service to submit their signal employee certification programs to FRA by March 17, 2025.[4] Class II and Class III railroads have until November 12, 2025 to submit their signal employee certification programs to FRA under the current rule.[5] Any railroad that commences operations after July 22, 2024 (the effective date of the final rule) must submit its signal employee certification program to, and obtain approval from, FRA prior to installing, implementing, or operating a signal system subject to part 246.[6] Furthermore, as of March 17, 2025, railroads are not allowed to permit or require that a person perform service as a certified signal employee unless such person is certified through the designation system described in 49 CFR 246.105(c)-(d).[7]

On July 12, 2024, the Association of American Railroads (AAR), the American Short Line and Regional Railroad Association (ASLRRA), and the Commuter Rail Coalition (CRC) filed timely petitions for reconsideration of the Signal Employee

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[3] 89 FR 44830 (May 21, 2024).
[4] 49 CFR 246.103(a)(1).
[5] 49 CFR 246.103(a)(2).
[6] 49 CFR 246.103(b).
[7] 49 CFR 246.105(e). FRA is exercising its enforcement discretion and not taking enforcement action on the current deadlines in 49 CFR 246.103(a)-(b) and 246.105(c)-(e).

Certification final rule.[8] Subsequently, on August 6, 2024, the American Public Transportation Association (APTA) submitted a letter urging FRA to extend the deadline for commuter railroads to submit their certification programs.[9] This letter was not submitted by the deadline for submitting petitions for reconsideration. However, FRA is treating APTA's letter as a petition for reconsideration.

FRA issued a response to these petitions for reconsideration on January 17, 2025. The response stated that FRA was granting APTA's petition and would initiate a rulemaking to extend the deadlines for all railroads to submit their signal employee certification program to FRA by six months. The response also stated FRA's intent to grant in part and deny in part AAR, ASLRRA, and CRC's petitions.[10]

On February 6, 2025, representatives from ASLRRA, AAR, and CRC met with FRA to discuss their concerns with part 246 which they raised in their petitions for reconsideration.[11] On March 14, 2025, FRA issued a follow-up letter to its January 17, 2025 response to the petitions for reconsideration and announced its intention to initiate a rulemaking to extend certain compliance dates in part 246 by one year, rather than the six months considered previously. The letter also stated that FRA would not take enforcement action against railroads for failing to meet the current deadlines in part 246. In addition, the letter stated that, after further consideration, and consistent with Executive Order (E.O.) 14219, Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative,[12] FRA was reopening its review and analysis of the issues raised in the petitions.[13]

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[8] FRA-2022-0020-0040, FRA-2022-0020-0042, and FRA-2022-0020-0039. ASLRRA endorsed AAR and CRC's petitions. CRC endorsed AAR and ASLRRA's petitions. AAR endorsed ASLRRA and CRC's petitions with respect to the issue of allowing contractors to certify signal employees.
[9] FRA-2022-0020-0041.
[10] FRA-2022-0020-0047.
[11] A record of this meeting was placed in the docket for this rulemaking on regulations.gov. FRA-2022-0020-0048.
[12] 90 FR 10583 (Feb. 19, 2025).
[13] FRA-2022-0020-0049.

In this NPRM, FRA is proposing to rescind part 246 in its entirety. While FRA is undertaking this rulemaking to rescind part 246 in its entirety, it will place on hold its review of any signal employee certification programs it has received or will receive during the pendency of this rulemaking. In addition, during the pendency of this rulemaking, FRA will continue to exercise its enforcement discretion and will not take enforcement action based on the current deadlines in 49 CFR 246.103(a)-(b) and 246.105(c)-(e).

II. Section-by-Section Analysis

As noted above, FRA received petitions for reconsideration of the 2024 final rule from AAR, ASLRRA, CRC, and APTA. These petitions asked FRA to revise part 246 to address a range of concerns presented by the final rule. For example, CRC requested that part 246 be amended to allow contractors to certify signal employees because: (1) part 246 places the obligations of certification on parties that do not have the necessary resources or expertise to certify signal employees, such as small commuter railroads; (2) contractors are in a better position to track, monitor, and keep records related to their employees; and (3) requiring multiple railroads to carry out the same task would lead to duplicative work and could result in different railroads reaching different conclusions about the same individual.[14] ASLRRA's petition expressed concern that the requirement that railroads provide each certified signal employee with at least one unannounced compliance test each year would result in an inefficient waste of resources. Because many short line railroads utilize the same contractor(s), ASLRRA asserted that dozens of railroads would have to certify the same individual and these contract signal employees would have to spend numerous days each year on operational testing.[15] AAR expressed concern that part 246 does not provide a definitive timeline for when FRA would issue

[14] FRA-2022-0020-0039.
[15] FRA-2022-0020-0042.

decisions approving or disapproving railroad signal employee certification programs. AAR contended potential delays could create confusion and make it impossible for railroads to plan for implementation of their certification programs, which ultimately would affect railroads' ability to hire, train, and qualify new signal employees.[16]

With respect to the rule's definition of "signal employee" in 49 CFR 246.7, CRC's petition expressed concern that the definition could be interpreted to include a broad swath of employees, which would make compliance with part 246 impracticable, impossible, unreasonable, and not in the public interest.[17] AAR's petition noted that the definition of "signal employee" does not align with the statutory definition of "signal employee" in the federal hours of service law (49 U.S.C. 21101(4)). AAR contended that this misalignment results in unnecessary confusion in determining who is covered by part 246.[18]

AAR's petition also expressed concern that the rule's definition of "signal system" in 49 CFR 246.7 exceeds the statutory definition of this term in 49 U.S.C. 20501 and improperly includes components that are in non-signaled territory, that are not integrated with signal or train control systems, and that are not otherwise connected to signal or train control systems.[19]

In addition, AAR expressed concern about the estimated costs of part 246 being greater than the estimated benefits.[20] FRA estimated the costs and benefits of the 2024 final rule and determined the total 10-year costs were estimated to be $9.4 million (Present Value (PV), 7 percent), and total 10-year benefits were estimated to be $2.9 million (PV, 7 percent). Net costs of the 2024 final rule were estimated to be $6.5

[16] FRA-2022-0020-0040.
[17] FRA-2022-0020-0039.
[18] FRA-2022-0020-0040.
[19] FRA-2022-0020-0040.
[20] FRA-2022-0020-0040.

million (PV, 7 percent) and annualized net costs were estimated to be $0.9 million (PV, 7 percent).

Lastly, the petitions raised issues regarding changes in ownership for short line railroads and the rule's definition of a "material modification." Regarding ownership changes, ASLRRA noted that short line railroads change ownership more frequently than Class I railroads and would be adversely affected by § 246.103(b). Specifically, ASLRRA alleged that a railroad with a program approved previously may have to stop operations if there is a change in ownership while it resubmits its program and waits for FRA approval, which would result in an unnecessary disruption to railroad operations.[21] AAR contended that FRA's definition of "material modification" was overbroad and should only apply to significant content-based changes to a railroad's program. AAR noted that the burden of getting minor adjustments to a program approved by FRA would discourage railroads from investing in new ways to train their employees and from making other changes to enhance their programs.[22]

All four petitions for reconsideration are available to the public in the docket for this rulemaking which can be found at https://www.regulations.gov.[23] FRA welcomes comments from the public on any of the issues raised in these petitions.

Based on FRA's review of these issues raised in the petitions for reconsideration, and in accordance with E.O. 14219, FRA has concluded preliminarily that rescission of the 2024 final rule in its entirety is warranted because the expected benefits do not justify the expected costs. In the 2024 final rule, FRA discussed unquantified safety benefits relating to "accident clean up, third party property damage, lost lading, environmental damage, loss of economic activity to the community, and train delays." FRA is requesting public comment or additional information on these unquantified safety

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[21] FRA-2022-0020-0042.
[22] FRA-2022-0020-0040.
[23] FRA-2022-0020-0039; FRA-2022-0020-0040; FRA-2022-0020-0041; FRA-2022-0020-0042.

benefits. FRA's proposal to rescind part 246 in its entirety would eliminate all the issues and concerns that were raised in the petitions for reconsideration and would eliminate the estimated costs associated with the 2024 final rule.

While FRA has the statutory authority to issue regulations requiring signal employee certification, it is not obligated to issue such regulations. Specifically, the RSIA provides that "[t]he Secretary *may* prescribe regulations requiring the certification of certain crafts or classes of employees that the Secretary determines . . . are necessary to reduce the number and rate of accidents and incidents or to improve railroad safety."[24] Since this statute is permissive with respect to establishing additional certification requirements for railroad crafts other than locomotive engineers and conductors, FRA is under no statutory obligation to require the certification of signal employees. Indeed, given the above preliminary determination that rescission of the 2024 rule is warranted because the expected benefits do not justify the expected costs, it is in the interest of the public for FRA to decline to require certification of signal employees.

For the reasons stated above, FRA proposes to rescind part 246 in its entirety. If FRA issues a final rule that rescinds part 246, FRA will continue to gather data on this issue and may reassess in the future whether certification requirements for signal employees are warranted. Alternatively, if FRA decides not to rescind this rule in its entirety, FRA proposes to extend the compliance dates for this rule to provide railroads with additional time to come into compliance with part 246. The proposed extension could be for a period of approximately six to twelve months from the effective date of a new final rule and would provide the regulated community assurance that they would not

[24] RSIA, sec. 402 (*emphasis added*).

be liable for noncompliance with the existing regulation, should FRA determine not to finalize the rescission of part 246.

III. Regulatory Impact and Notices

A. Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FRA has considered the impact of this NPRM under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, and DOT Regulatory Policies and Procedures. The Office of Management and Budget (OMB) Office of Information and Regulatory Affairs determined that this NPRM is not a significant regulatory action under section 3(f) of E.O. 12866.

FRA is proposing to rescind the May 21, 2024 final rule addressing the Certification of Signal Employees. FRA has analyzed the potential costs and benefits of this proposed rule.

In the 2024 final rule, FRA estimated 10-year costs of $9.4 million (PV, 7 percent). If FRA finalizes the proposed rescission of that final rule, those costs would become a cost savings. Table 1 shows the total 10-year cost savings of this proposed rule.

Table 1: Total 10-Year Cost Savings (2020 Dollars)

10-Year Cost Savings ($)	Present Value 7% ($)	Present Value 3% ($)	Annualized 7% ($)	Annualized 3% ($)
12,178,832	9,386,306	10,821,350	1,336,399	1,268,592

In the 2024 final rule, FRA estimated 10-year benefits of $2.9 million (PV, 7 percent), which would no longer be realized if the 2024 final rule is rescinded.

FRA recognizes there may be some railroads who may have begun to comply with the 2024 final rule and therefore, incurred costs. However, FRA expects that the

cost savings that would be realized from rescinding the 2024 rule ultimately are greater than the foregone safety benefits.

B. Executive Order 14192 (Unleashing Prosperity Through Deregulation)

E.O. 14192 (90 FR 9065, Jan. 31, 2025), Unleashing Prosperity Through Deregulation, requires that for "each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination."[25] Implementation guidance for E.O. 14192 issued by OMB (Memorandum M-25-20, Mar. 26, 2025) defines two different types of E.O. 14192 actions: an E.O. 14192 deregulatory action, and an E.O. 14192 regulatory action.[26]

An E.O. 14192 deregulatory action is defined as "an action that has been finalized and has total costs less than zero." This proposed rule, if finalized as proposed, is expected to have total costs less than zero or negligible costs, and therefore it would be considered an E.O. 14192 deregulatory action. The rescission of the 2024 final rule is expected to result in an estimated 10-year cost savings of $9.4 million, discounted at 7 percent.

C. Regulatory Flexibility Act and Executive Order 13272

The Regulatory Flexibility Act ((RFA), 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996,[27] and E.O. 13272 (67 FR 53461, Aug. 16, 2002) require agency review of proposed and final rules to assess their impacts on small entities. When an agency issues a rulemaking proposal, the RFA requires the agency to "prepare and make available for public comment an initial regulatory flexibility analysis" which will "describe the impact of the proposed rule on

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[25] Executive Office of the President. *Executive Order 14192 of January 31, 2025. Unleashing Prosperity Through Deregulation*. 90 FR 9065-9067. Feb. 6, 2025.
[26] Executive Office of the President. OMB. *Guidance Implementing Section 3 of Executive Order 14192, Titled "Unleashing Prosperity Through Deregulation."* Memorandum M-25-20. Mar. 26, 2025.
[27] Pub. L. No. 104–121, 110 Stat. 857 (Mar. 29, 1996).

small entities."[28] Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

FRA certified that the 2024 final rule for Certification of Signal Employees[29] will not have a significant economic impact on a substantial number of small entities. Although this proposed rule, which would rescind that final rule, would impact a substantial number of small entities, it would provide a positive impact by removing all requirements related to certification of signal employees. FRA recognizes there may be some small entities who may have begun to comply with the 2024 final rule and therefore, incurred costs. However, FRA expects that the cost savings realized from rescinding this rule would be greater than any potential safety benefits. This proposed rule would not therefore have a significant impact on a substantial number of small entities and FRA expects to certify that this rule would not have a significant economic impact on a substantial number of small entities.

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. No. 104–121, 110 Stat. 857), FRA wants to assist small entities in understanding this proposed rule so they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

D. Paperwork Reduction Act

There is no new collection of information requirements contained in this proposed rule and, in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et*

[28] 5 U.S.C. 603(a).
[29] 89 FR 44830, 44865 (May 21, 2024).

seq., an information collection submission to OMB is not required. The recordkeeping and reporting requirements already contained in the 2024 Certification of Signal Employees final rule[30] were approved by OMB on June 6, 2024. With the proposed recission of this rule, FRA intends to discontinue the associated information collection, OMB Control No. 2130-0638, when a final rule is published.

E. Environmental Assessment

FRA has analyzed this proposed rule for the purposes of the National Environmental Policy Act of 1969 (NEPA). In accordance with 42 U.S.C. 4336 and DOT NEPA Order 5610.1D, FRA has determined that this rule is categorically excluded pursuant to 23 CFR 771.116(c)(15). This rulemaking is not anticipated to result in any environmental impacts, and there are no unusual or extraordinary circumstances present in connection with this rulemaking.

F. Federalism Implications

This proposed rule would not have a substantial effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Thus, in accordance with E.O. 13132, Federalism (64 FR 43255, Aug. 10, 1999), preparation of a Federalism Assessment is not warranted.

G. Unfunded Mandates Reform Act of 1995

This proposed rule would not result in the expenditure, in the aggregate, of $100,000,000 or more, adjusted for inflation, in any one year by State, local, or Indian Tribal governments, or the private sector. Thus, consistent with section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4, 2 U.S.C. 1532), FRA is not required to prepare a written statement detailing the effect of such an expenditure.

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[30] 89 FR 44830, 44867 (May 21, 2024).

H. Energy Impact

E.O. 13211 requires Federal agencies to prepare a Statement of Energy Effects for any "significant energy action."[31] FRA has evaluated this proposed rule in accordance with E.O. 13211 and determined that this proposed rule is not a "significant energy action" within the meaning of E.O. 13211.

I. Executive Order 13175 (Tribal Consultation)

FRA has evaluated this proposed rule in accordance with the principles and criteria contained in E.O. 13175, Consultation and Coordination with Indian Tribal Governments (Nov. 6, 2000). The proposed rule would not have a substantial direct effect on one or more Indian tribes, would not impose substantial direct compliance costs on Indian tribal governments, and would not preempt tribal laws. Therefore, the funding and consultation requirements of E.O. 13175 do not apply, and a tribal summary impact statement is not required.

J. International Trade Impact Assessment

The Trade Agreement Act of 1979[32] prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the U.S. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. This rulemaking is purely domestic in nature and is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

K. Privacy Act Statement

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to

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[31] 66 FR 28355 (May 22, 2001).

[32] 19 U.S.C. ch. 13.

http://www.regulations.gov, as described in the system of records notice, DOT/ALL-14 FDMS, accessible through www.transportation.gov/privacy. To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be considered fully. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

L. Rulemaking Summary

As required by 5 U.S.C. 553(b)(4), a summary of this rule can be found at regulations.gov, Docket No. FRA-2022-0020, in the SUMMARY section of this proposed rule.

List of Subjects in 49 CFR Part 246

Administrative practice and procedure, Signal employee, Penalties, Railroad employees, Railroad safety, Reporting and recordkeeping requirements.

PART 246—[REMOVED]

For the reasons stated in the preamble, under the authority of E.O. 14219 and 49 U.S.C. 20103, FRA proposes to remove 49 CFR part 246.

Issued in Washington, DC.

David A. Fink,
Administrator.

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