



**American  
Public Transportation  
Association**

September 14, 2023

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Paul P. Skoutelas

Department of Transportation  
Docket Operations  
M-30, West Building Ground Floor, Room W12-140  
1200 New Jersey Avenue S.E.  
Washington, DC 20590

Subject: Docket No. FRA-2022-0020, RIN 2130-AC92

Dear Docket Clerk:

The American Public Transportation Association (APTA) represents an \$80 billion industry that directly employs 450,000 people and supports millions of private-sector jobs. APTA writes to you today to submit comments for the notice of proposed rulemaking (NPRM) for Certification of Signal Employees published in the *Federal Register* May 31, 2023, at 88 FR 35632. APTA's membership includes operating railroads, consultants, car builders and suppliers. We appreciate the chance to respond to your proposed rulemaking on behalf of our commuter rail members.

**Signal Employee Certification Comments**

**§ 246.7 Definitions.**

*Qualified instructor* means a person who:

- (1) Has demonstrated, pursuant to the railroad's written program, an adequate knowledge of the subjects under instruction;
- (2) Where applicable, has the necessary experience to effectively instruct in the field;
- (3) Is a certified signal employee under this part; and
- (4) If the railroad has designated employee representation, has been selected by a designated railroad officer, in concurrence with the designated employee representative, or has a minimum of one year of service working as a certified signal employee.

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The selection of qualified instructors is inherently the responsibility of railroad management – the railroad itself has a duty to select someone qualified, and discharge of that duty should not be subject to consent of another party. Notwithstanding any other regulations in place at this time with similar requirements, paragraph (4) should be deleted. Alternatively, a railroad could list/describe minimum standards to be considered for a Qualified Instructor position in the railroad’s written program.

Furthermore, instructors may report to a railroad’s training department and not the applicable operating department. Requiring an instructor be a certified signal employee under this part is not strictly achievable as some instructors would not meet the definition of *signal employee* because they are not engaged in installing, troubleshooting, testing, repairing, or maintaining railroad signal systems or related technology.

*Mentor: ...has at least one year of experience...*

The selection of mentors is inherently a responsibility of railroad management – the railroad itself has a duty to select someone qualified as a mentor. Alternatively, a railroad could list/describe minimum standards to be considered for a mentor position in the railroad’s written program.

*Signal employee: ...or related technology.*

We ask for clarification on “related technology”. The proposed verbiage may lead to misinterpretations, as the term “related technology” is too broad. In portions of electrified territory, railroads may have electric traction department employees conduct railhead bonding and in other cases contractors perform non-vital work such as running direct burial cable – these employees should not be considered signal employees, but the openness of the phrase “related technology” potentially includes them. This also could be misinterpreted to mean mechanical department employees working on a locomotive or other on track equipment’s onboard cab/Positive Train Control (PTC) signal systems are signal employees per § 246.

*Signal system: ...as well as other safety related devices, appliances, technology, and systems installed on the railroad in signaled or non-signaled territory.*

“Other safety related devices” terminology is overly broad and may lead to misinterpretation. Furthermore, “systems installed on the railroad” should include the word “wayside” so the definition reads, “wayside systems installed”. The proposed definition could be misinterpreted to mean mechanical department employees working on a locomotive or other on track equipment’s onboard cab/Positive Train Control (PTC) signal systems would meet the definition of signal system – especially considering engineering versus mechanical training programs being entirely different and separate from one another.

#### **§ 246.105 Implementation schedule for certification programs.**

Since there is no certainty around the effective date of this rule at this time, a provision should be made for designating signal employees currently enrolled in initial training programs in advance of the effective date of the rule such that they can be certified upon completion of their program in a manner similar to persons performing signal employee duties on the effective date of the

rule. The railroad would submit in writing, pursuant to § 246.105(c)(1) its current signal employees in training it will designate as certified signal employees upon successful completion of its signal employee training course. Implementing new certification requirements in the middle of a training program will be disruptive to participants and instructors.

#### **§ 246.117 Vision Acuity**

For some railroads, the nature of signals is such that only the portion of the signal head is illuminated alone would allow employees to distinguish the aspects being displayed. Signal employees are not engaged in train operation and do not have to recognize signals at long distances at speed. Therefore, the allowance provided by the proposed 246.117(d)(3) should be maintained such that employees have the ability to recognize and distinguish the different aspects of railroad signals used on the railroad as applicable to their craft would be eligible for certification.

#### **§ 246.119 Training Requirements**

*(f)(2) Demonstrate on-the-job proficiency, with input from a qualified instructor; by successfully completing the tasks and using the signal systems and technology necessary to be a certified signal employee on the certifying railroad. A certification candidate may perform such tasks under the direct onsite supervision of a certified signal employee who has at least one year of experience as a signal employee;*

“At least one year of experience” is not necessary as a “mandate”. The minimum standards for a signal employee to be allowed to supervise a trainee should be pursuant to the railroad’s written program to allow railroads flexibility to account for the particulars of their workforce.

In paragraph (k), the use of the word installation provides for an ambiguity that could prevent contractors qualified on a particular system from installing equipment until the railroad trains its employees on the system.

#### **§ 246.207 Certificate requirements.**

The requirement to replace certificates without cost is potentially unlimited – creating a situation where an employee could “lose” their certificate regularly. FRA should clarify the regulation, or in the preamble, that requiring replacement of the certificate to be cost free does not preclude use of the progressive disciplinary process for accountability purposes.

#### **§ 246.303 Criteria for Revoking Certification**

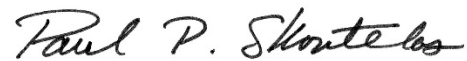
Paragraphs (e)(7) through (e)(10) have existing enforcement mechanisms and are related to an individual’s personal safety versus the safety of the operating railroad system, and, therefore, should be removed from this list. De-certifiable events should be directly linked to specific duties of signal employees that affect the safe movement of trains or of the public’s interaction with the railroad – especially when there are other FRA enforcement mechanisms available for willful violations of right-of-way protections and blue signal regulations.

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Railroads with existing C3RS programs should not be required to apply for waivers to this new regulation if it is expected that C3RS protection will be afforded to the specified de-certifiable events. We request the regulation account for such programs in a manner that the previously required C3RS waivers associated with 240 and 242 or are provided for railroads with C3RS or without a waiver application. Also, if there are any de-certifiable events that will not be afforded C3RS protections, such events should be specifically identified in the regulation.

APTA appreciates the opportunity to comment on this NPRM. If there are any questions regarding this letter, please contact APTA's General Counsel, Linda Ford, at [lford@apta.com](mailto:lford@apta.com).

Sincerely,

A handwritten signature in black ink that reads "Paul P. Skoutelas". The signature is written in a cursive, flowing style.

Paul P. Skoutelas  
President and CEO