

Operating Rules Working Group

Consensus Items

Part 218.99(d)(3) (Shoving or pushing movements)

NPRM: *Remote control zone, exception to point protection requirement.* Exception (3) would have required the RCL crew to make another determination that the track is clear if the RC Zone had been jointly occupied. This meant another conditioning run.

Comments received by FRA: The AAR requested reconsideration to allow the determination that the track is clear, after joint occupancy, to be made verbally.

Resolution by Working Group: The WG agreed to permit verbal determination that “track is clear” between the crews jointly occupying the RC Zone, provided that it is a direct communication between the crews involved, and not through a third party. Rationale was that a verbal, direct communication to determine “track is clear” between RCL crews was already permitted at shift changes, so why not after a joint occupancy.

Part 218.101(b) (Leaving equipment in the Clear)

NPRM: The NPRM required that equipment left on industry tracks, the same as elsewhere, shall not be left where it will foul a connecting track.

Comments received by FRA: AAR requested the entire paragraph (section) be eliminated because they felt it duplicated the requirements in §§ 218.99 and 218.103. Absent that, they requested an exclusion for loading/unloading activities when cars are placed within an industry.

Resolution by Working Group: Regarding the AAR’s first request, the WG did not feel that this section is redundant and that it duplicates requirements found elsewhere in the regulation. The requirement that equipment not be left where it will foul other tracks is a long-standing operating rule in the industry which is merely being federalized to strengthen its enforceability. Leaving equipment in the foul accounted for 5% of all human factor accidents during the four-year period 2003-2006. The WG acknowledged that there are other elements in the proposed regulation that require the track to be clear prior to a pushing or shoving movement, and for all hand-operated switches to be properly lined before fouling a track, and that these requirements might appear, perfunctorily, to obviate the need for a fouling rule. However, the WG also recognized that leaving equipment in the foul sets the stage for a potential accident in the event one or more of the ancillary requirements in the regulation are overlooked. The WG therefore agreed that this section shall remain intact.

Regarding the second request for an exclusion within industry tracks, the FRA and the WG agreed that this proposal has merit. FRA accident data indicates that of the 5% total human factor accidents caused by equipment left in the foul, only 0.5% (½ of a percent) occurred on

industry tracks. Further, industries are constantly moving equipment around within their plants for loading/unloading, or for other purposes, therefore rendering the enforceability of the regulation within industry tracks somewhat dubious at best. Therefore, the WG agreed to exempt the fouling rule from industry tracks.

Part 218.93 (Definitions)

NPRM: *Foul or fouling a track* means rolling equipment or on-track maintenance-of-way equipment is located such that any part of the equipment is between the clearance point and the switch point leading to the track on which the equipment is standing.

Discussion: it was brought up at the final WG meeting in Philadelphia that the definition needed clarity with respect to what the term “any part” of the equipment meant. Taken literally, a high-and-wide load or a shifted load of lumber protruding from the side of a flat car might technically “foul” an adjacent track, while the end of the car is still well within the clearance point of the switch. Whereas the intent, patterned after the long-standing operating rule, which always was referring to the end of the equipment, the WG therefore agreed to make the definition more precise and eliminate any ambiguity for enforcement purposes.

Resolution by Working Group: *Foul or fouling a track* means rolling equipment or on-track maintenance-of-way equipment is located such that the end of the equipment is between the clearance point and the switch point leading to the track on which the equipment is standing.

NPRM: *Industry track*. No definition existed.

Discussion: during the WG’s deliberations on leaving equipment in the clear, it was decided that the term “industry track” needed to be defined for clarity to distinguish it from other types of tracks used for similar purposes, such as yard tracks, team tracks, sidings, etc. It was decided to use the definition contained in FRA’s Accident/Incident Guide.

Resolution by Working Group: *Industry track* means a switching track, or series of tracks, serving the needs of a commercial industry other than a railroad.