



Memorandum

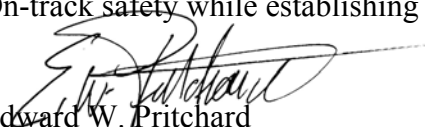
U.S. Department
of Transportation

**Federal Railroad
Administration**

Date: January 10, 2005

Reply to Attn of: G-05-13

Subject: Roadway Worker Protection Technical Bulletin
On-track safety while establishing working limits

From: 
Edward W. Pritchard
Director, Office of Safety Assurance and Compliance

To: Regional Administrators
Deputy Regional Administrators
Track Supervisory Specialists
Signal and Train Control Supervisory Specialists
Operating Practices Supervisory Specialists

Concern has been raised about roadway workers who must foul the track in order to make the track inaccessible (49 C.F.R. §214.327). The specific concern is whether these workers need to have on-track safety protection while in the process of establishing on-track safety for the work to be performed and fouling the track? This type of activity is typically found with lone workers who may need to install a portable derail or to secure a switch, in order to establish on-track safety.

When looking at the individual roadway worker's responsibility, found at §214.313, roadway workers are not to foul the track unless necessary for the performance of their duties and they are responsible to determine that on-track safety is being provided prior to fouling the track. When fouling the track to make the track inaccessible, roadway workers are fouling in performance of their duties and should make sure they are protected. In many cases, roadway workers are able to use individual train detection in accordance with §214.337 (c). However, §214.337(c) (3) prohibits the use of individual train detection within the limits of a manual interlocking, a controlled point, or a remotely controlled hump yard facility. Of course, as §214.327 makes clear, inaccessible track may be used as a method of protection only on non-controlled track (see definition of "controlled track" in §214.7), §214.327 so the factors that would preclude using individual train detection will not ordinarily be present where inaccessible track is being established.

Based on the foregoing, lone workers need protection when fouling the track, even if only to establish on-track safety and the Roadway Worker Protection regulation strictly prohibits a lone worker from using individual train detection while performing any type of associated work activities in a manual interlocking, controlled point, or remote hump yard facility.

This bulletin is based on consultation with FRA's Office of Chief Counsel. Anyone desiring a formal legal interpretation on any issues discussed in this bulletin should contact that office.

###