U.S. Department
of Transportation

Federal Railroad Administration

Memorandum

Date: February 3, 2004 Reply to Attn of: OP-04-11

Subject: Torpedoes/Rear End Flag Protection

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

To: Regional Administrators

The attached letter to Charles Dettmann of the Association of American Railroads, dated October 14, 1994, formalizes FRA's position regarding the above subject.

This correspondence is provided as information and guidance to OP Specialists and Inspectors in the discharge of their enforcement duties relative to Part 218.37.

Attachment

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Attachment to OP-04-11

Mr. Charles E. Dettmann
Vice President Operations and Maintenance
Association of American Railroads
50 F Street, N.W.
Washington, D.C. 20001

October 14, 1994

Dear Mr. Dettmann:

As you may be aware, several railroads have recently petitioned the Federal Railroad Administration (FRA) to grant a permanent waiver of compliance from certain provisions of Title 49 Code of Federal Regulations (CFR), Part 218 - Railroad Operating Practices, in particular, Part 218.37, "Flag Protection." The petitioners have requested that they be permanently relieved from the requirement of using torpedoes as a part of flagmen's signals, as defined in 49 CFR Part 218.5. As a matter of policy, FRA will consider these petitions separately and will either grant or deny relief based on the individual merits in each case. Notwithstanding, FRA feels that there are certain common issues raised in the petitions, regarding flagging and the use of torpedoes, that should be clarified to the industry as a whole.

As stated in the regulation, flag protection against following trains on the same track is not required if at least one of the five conditions, as specified in Part 218.37 (a) (2), pertains:

(i) The rear of the train is protected by at least two block signals;

(ii) The rear of the train is protected by an absolute block;

(iii) The rear of the train is within interlocking limits;

(iv) A train order specifies that flag protection is not required;

(v) A railroad operates only one train at any given time.

Also, flag protection is not required in yard limits except in case of failure to clear the time of a designated class train in non-signaled territory, as prescribed in Part 218.35 (b) (1). Further, flag protection to the front against opposing movements, as prescribed in Part 218.37 (a) (1) (iv), would be necessary only if a railroad's operating rules required it.

Consequently, a railroad whose operating rules and methodologies are such that they fall wholly within parameters provided in Parts 218.35 (b) (1) and 218.37 (a) (2), and who do not otherwise have an operating rule requiring flag protection to the front against opposing movements, would be relieved of the flagging requirements of Part 218.37, including the use of torpedoes. Adjacent track protection and flag protection imposed by railroad operating rules for conditions other than those specifically prescribed in Parts 218.35 and 218.37, are additional requirements and are therefore outside the scope of this regulation.

It follows, of course, that whenever trains operate on main tracks of other railroads, they will be expected to be in compliance with Federal regulations and the host railroad's operating rules, as applicable.

It should also be understood that even though the flag protection prescribed in Part 218.37 may not be required as discussed above, all railroads must continue to have in effect an operating rule which complies with the requirements of Part 218.37, until such time as a future rulemaking eliminates this requirement.

Please share this information with member railroads in your organization. If there is need for further clarification, please feel free to contact me.

Signed by Edward R. English, Director, Office of Safety Enforcement