



Memorandum

U.S. Department
of Transportation

**Federal Railroad
Administration**

Date: January 10, 2005

Reply to Attn of: G-05-19

Subject: Roadway Worker Protection Technical Bulletin
Contractor on-track safety training


From: Edward W. Pritchard
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To: Regional Administrators
Deputy Regional Administrators
Track Supervisory Specialists
Signal and Train Control Supervisory Specialists
Operating Practices Supervisory Specialists

Often, contractors are engaged by railroads to conduct engineering type work. Accordingly, it is necessary to provide guidelines for contractors regarding on-track safety training and record keeping.

The roadway worker protection regulation indicates that the employer of roadway workers shall maintain records of employees who have been trained and qualified on the on-track safety rules of the railroad. Each record shall include the name of the employee, the type of qualification made, and the most recent date of qualification. The definition found under §214.7 describes an employer as:

“...a railroad, or a contractor to a railroad, that directly engages or compensates individuals to perform any of the duties defined in this part.”

The definition found under §214.7 describes an employee as:

“...an individual who is engaged or compensated by a railroad or by a contractor to a railroad to perform any of the duties defined in this part.”

Title 49 CFR 214, Subpart A establishes responsibility for compliance with all of Part 214 under §214.5, Responsibility for Compliance. Sec. 214.5 clearly references, among a host of other entities, “any independent contractor providing goods or services to a railroad.” As such, railroad contractors and their employees performing roadway worker functions are held to the identical standards and requirements as railroads and railroad employee roadway workers. The nature of the work is identical, the nature of the risks are identical, and therefore, the training, record keeping, monitoring and other provisions should also remain identical (§214.5).

The safety of railroad operations and the safety of those performing work regulated under Part 214 is contingent upon the uniform and consistent application of operating rules, safety rules, and regulatory requirements.

The regulation clearly states that all roadway workers will receive initial training. This training must be performed prior to the commencement of work. The regulation does not specify that this training must be performed in a classroom environment. This initial training could be performed at the job site *prior* to the worker fouling the track. This training must include at a minimum the five basic elements defined in §214.345. Any employee who is promoted from a “basic worker” to a higher form of roadway worker qualification must demonstrate proficiency or take the recorded examination before assuming such duties.

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.

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