

“Blue Flag Protection”

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“Equipment Called to Operate”

FRA has told us that they are taking a very stringent interpretation of **“Equipment Called to Operate”**.

What does this mean?

Crew members cannot assist other train crews in coupling or uncoupling of cars,

Cannot change EOT batteries,

Work on cars of a train, **for which they were not called**,

Unless blue flag protection is provided.

The FRA gave several questions and answers, which help define their interpretation:

1. Can members of one crew assist another crew, such as making a coupling at a road crossing;
2. Replacing or changing EOT batteries;
3. Changing an air hose without establishing blue signal protection?

No- It would have to involve the entire crew, to include using the locomotive, to handle the equipment and to assist another crew.

Can a train crew member perform a mechanical repair? (Change a brake shoe) Without establishing blue flag protection?

Yes- If the repairs are performed on the equipment, he/she is called to operate and he/she is **not working** as **a utility employee.**

Utility Employee Job Functions: (CFR 218.22 (c)(5))

1. Set or release hand brakes
2. Couple or uncouple air hoses & other electrical or mechanical connections
3. Prepare rail cars for coupling
4. Set wheel blocks or wheel chains
5. Conduct air brake test to include cutting air brake components in/out
6. EOT-inspect, test, install or remove.

Can a **crew member** assist another crew with the following job functions, **without blue signal protection?**

1. Protect a shoving move? **YES**
2. Line a switch? **YES**
3. Pull a cut lever? **YES**, Pulling a cut lever **does not** require blue signal protection.
4. (**NO**, if a cut lever is pulled and an angle cock is required to be opened or closed, **then blue signal protection would be required, unless the individual is a properly attached Utility Man.**)
5. When the presentation was given, the answer to that question was "maybe", based on the above discussion.

The blue flag protection is designed to provide rail workers with the maximum amount of safety in a dangerous situation. I ask you to review these rules with your fellow employees, so that we can work together in making the Rail industry a safe place to work, while abiding by the federal regulations.

If you are instructed by the carrier to violate any Federal Regulation- **Do Not Refuse – Request the carrier officers or Dispatchers name, with time, date and train number, forward to your local UTU officer for handling.**

Questions and Answers to **Equipment Called to Operate.**

Question: A hostler, if he has to cut an engine off or add an engine to consist and a crew is on the leading

locomotive, can the Hostler go in-between to connect or disconnect the hoses and set up the engines?

YES, because this is equipment he is called to operate. It is the same as a yard crew adding cars to a train with the road crew in place on the head end. Advise the individual that **communication** between the two crews is the key to this type of operation.

Question: Is it permissible for one train to shove another?

(Example, for instance when this involves the conductor coupling onto the train being shoved and going in between the engine and rear car, coupling the air.)

YES, would have to involve the **entire crew**, including using the locomotive, to handle the equipment and to assist the other crew.

The key to this type of operation is communication between the two crews.

1. **Crewmember --- Called for one Train or Equipment to operate.**

2. **Utility person --- A utility employee shall perform service as a member of only one train or yard crew at any given time. CFR 218.22 & 218 App B**

3. **Worker --- Needs Blue Signal Protection CFR 218.27**

Question: Can a Utility person being instructed by management to;

"Protect a shove without being attached to a crew."

Answer: Protecting a shove move **is not** a utility employee issue.

Further, **any** qualified employee may protect a shove move.

The **employee would not be considered a worker, either.**

Of course, this activity would subject the individual to the Hours of Service Laws, Part 217 (instruction on operating rules and operational testing and inspections), Part 220 (if the move is being directed by radio), and possibly federal drug/alcohol testing, **depending on how many times a quarter the individual performs this function.**

Question: a yard crew is instructed to hostile power to the head end of a train. The crew will use the track adjacent to the train to move the power to the head end of the train. While moving the power to the head end is it permissible for the yard crew to arm the end of train device on the train on the adjacent track without blue flag protection?

Answer: Yes. The train is equipment the yard crew was called to operate, and as long as the engine is in the vicinity of the crew, and the adjacent track would certainly qualify as being in the vicinity, then this is acceptable. However, the yard crew is still required to ensure that the equipment will not be coupled to or moved during the time the yard crew is arming the EOT. Also, this is conditional on the road crew not yet being on duty. The yard crew would have to determine this before fouling the equipment. If the road crew **is** on duty, then only one crew can be in charge of the train at a time, and the two crews would have to work this out between themselves as to which one would arm the EOT --- they can't "mix-and-match."

Question: In reference to the above question: Could the yard crew arm the end of train device on the adjacent track if the car department had the adjacent track blue flagged without additional blue flag protection?

Answer: NO. A member of a train or yard crew (T&E employee) may not foul equipment while the track is under blue signal protection by the mechanical department. I suppose the T&E employee could provide his/her own blue signal protection, but that would tend to complicate rather than facilitate the accomplishment of the task. Why not simply ask someone from the mechanical department, who applied the blue signals, to arm the device?

Question: -An engineer on a through freight train is instructed to stop his/her train and perform the daily inspection on a DP unit on a train stored in the siding. Does the engineer require blue flag protection?

Answer: No -- if the daily inspection can be performed without the employee placing himself in a position of danger should the equipment inadvertently move. However, if the employee's activities would place him/herself in a position of danger should the equipment inadvertently move, then the employee would require blue signal protection.

Question: In the above scenario if the engineer is required during the daily inspection to open an engine compartment door to visually check the water, oil, etc. would this require blue flag protection?

Answer: No--this would follow the same rule of reason as explained in the answer above. Typically, opening an engine compartment door to visually check fuel and water levels, etc., would not require blue signal protection. Even pulling a dipstick and checking an oil level normally wouldn't place an employee in harm's way. Anything more involved than that, such as removing (unscrewing) a fuel cap, using a tool, reaching way into the compartment with your body, etc., would most likely indicate the need for blue signal protection.

Question: If there was a crew on the train of the engine being inspected would the engineer then be required to have blue flag protection and/or attach as a utility employee?

Answer: The issue is whether or not the employee would be injured if the equipment inadvertently moved, not the *likelihood* of it moving, nor the fact that there may or may not be other employees present. Employees must at all times be conscious of and understand, in connection with rolling equipment that is not protected by blue signals, that movement should always be expected, and be governed accordingly

Question: A conductor on one train is performing a roll by inspection of another train and discovers a handbrake and or brakes sticking on a car. Can the conductor performing the inspection release the hand brake or work on the sticking brake of the other train without blue flag protection?

Answer: In the situation described, under normal circumstances, the conductor **may not** release the handbrake or work on the sticking brake on another train without either: (1) becoming a Utility Employee (in which case, his/her work with their original crew must be essentially complete); or (2) providing blue signal protection.

However, in a bonafide emergency situation, FRA would certainly take the circumstances under consideration when exercising its prosecutorial discretion. An example would be if Train A out on the line of road, in extremely frigid temperatures, with two feet of snow on the ground, and otherwise treacherous walking conditions, experienced a problem with a sticking/smoking brake, and it was observed by a crewmember of a

passing train, Train B, then, after Train A was notified and brought to a safe stop, perhaps with crossings blocked, in that situation, it is very likely that the emergency provision contained in the federal blue signal regulation

[§ 218.25(c)]* could justifiably be invoked, and a crewmember from Train B could then assist Train A. Again, FRA would view each situation on a case-by-case basis on its own merits.

**§ 218.25(c) When emergency repair work is to be done on, under, or between a locomotive or one or more cars coupled to a locomotive, and blue signals are not available, the engineman or operator must be notified and effective measures must be taken to protect the workers making the repairs.”

Question: If a Utilityman is bleeding off a track and then he has to perform work to this track like lace an air hose, tie a hand brake, remove a ETD, close an angle cock, etc... can the U-man then attach himself to a yard job and get protection and notify all yard crews working in the yard and then do this work, even if the switch crew he has attached to is in another track or switching on the lead? Or would he have to follow the Blue Flag Rule?

Answer: A properly attached utility employee (UE) functions as an integral member of the crew to which he/she is attached. Therefore, as would be true for any crewmember, in order for the UE to qualify for the blue signal exemption for train and yard crews:

- (1) it must be rolling equipment that the crew was called to operate;
- (2) the locomotive of the crew to which the UE is attached must be “in the vicinity” of all of the crewmembers so as to afford protection against inadvertent movement of rolling equipment;
- (3) all crewmembers must be in proximity to one another, need to be in communication with each other, and must have an understanding of the work to be performed; and
- (4) if there are other crews working in the yard, such as at the opposite end of the track, then there must also be an understanding with those crews so that appropriate safeguards may be taken.

Part 218 Subpart B Blue Signal Protection of Workers

218.21 Scope.

218.22 Utility employee.

218.23 Blue signal display.**218.24 One-person crew.****218.25 Workers on a main track.****218.27 Workers on track other than main track.****218.29 Alternate methods of protection.****218.30 Remotely controlled switches.****Utility employee.****218.22(a)**

(a) A utility employee shall be subject to the Hours of Service Act, and the requirements for training and testing, control of alcohol and drug use, and hours of service record keeping provided for in parts 217, 219, and 228 of this chapter.

218.22(b)

(b) A utility employee shall perform service as a member of only one train or yard crew at any given time. Service with more than one crew may be sequential, but not concurrent.

218.22(c)

(c) A utility employee may be assigned to and serve as a member of a train or yard crew without the protection otherwise required by subpart D of part 218 of this chapter only under the following conditions:

218.22(c)(1)

(1) The train or yard crew is assigned a controlling locomotive that is under the actual control of the assigned locomotive engineer of that crew;

218.22(c)(2)

(2) The locomotive engineer is in the cab of the controlling locomotive, or, while the locomotive is stationary be replaced in the cab by another member of the same crew;

218.22(c)(3)

(3) The utility employee established communication with the crew by contacting the designated crew member on arriving at the train (as defined for the purpose of this section as one or more locomotives coupled, with or without cars) and before commencing any duties with the crew.

218.22(c)(4)

(4) Before each utility employee commences duties, the designated crew member shall provide notice to each crew member of the presence and identity of the utility employee. Once all crew members have acknowledged this notice, the designated crew member shall advise the utility employee that he or she is authorized to work as part of the crew. Thereafter, communication shall be maintained in such a manner that each member of the train or yard crew understands the duties to be performed and whether those duties will cause any crew member to go on,

under, or between the rolling equipment; and

218.22(c)(5)

(5) The utility employee is performing one or more of the following functions: set or release hand brakes; couple or uncouple air hoses and other electrical or mechanical connections; prepare rail cars for coupling; set wheel blocks or wheel chains; conduct air brake tests to include cutting air brake components in or out and position retaining valves; inspect, test, install, remove or replace a rear end marking device or end of train device. Under all other circumstances a utility employee working on, under, or between railroad rolling equipment must be provided with blue signal protection in accordance with §§ 218.23 through 218.30 of this part.

218.22(d)

(d) When the utility employee has ceased all work in connection with that train and is no longer on, under, or between the equipment, the utility employee shall notify the designated crew member. The designated crew member shall then provide notice to each crew member that the utility employee is being released from the crew. Once each crew member has acknowledged the notice, the designated crew member shall then notify the utility employee that he is released from the train or yard crew.

218.22(e)

(e) Communications required by § 218.22(c)(4) and (d) shall be conducted between the utility employee and the designated crew member. This communications shall be conducted either through direct verbal contact, by radio in compliance with part 220 of this chapter, or by oral telecommunication of equivalent integrity.

218.22(f)

(f) No more than three utility employees may be attached to one train or yard crew at any given time.

218.22(g)

(g) Any railroad employee who is not assigned to a train or yard crew, or authorized to work with a crew under the conditions set forth by paragraph (b) of this section, is a worker required to be provided blue signal protection in accordance with §§ 218.23 through 218.30 of this part.

218.22(h)

(h) Nothing in this section shall affect the alternative form of protection specified in § 221.16 of this chapter with respect to inspection of rear end marking devices.

[58 FR 43293, Aug. 16, 1993, as amended at 60 FR 11050, Mar. 1, 1995]

218.27 Workers on track other than main track.

When workers are on, under, or between rolling equipment on track other than main track-218.27(a)

(a) A blue signal must be displayed at or near each manually operated switch providing access to that track;

218.27(b)

(b) Each manually operated switch providing access to the track on which the equipment is located must be lined against movement to that track and locked with an effective locking device; and

218.27(c)

(c) The person in charge of the workers must have notified the operator of any remotely controlled switch that work is to be performed and have been informed by the operator that each remotely controlled switch providing access to the track on which the equipment is located has been lined against movement to that track and locked as prescribed in § 218.30.

218.27(d)