

§ 218.99(c) – Remote control operations

All remote control movements are considered shoving or pushing movements except when the remote control operator controlling the movement is riding the leading end of the leading locomotive and is in a position to visually determine conditions of the movement.

It is important that inspectors observe that a member of the crew visually determines the direction of movement when employees initiate a remote control shoving or pushing movement. It must be a member of the crew and not merely a qualified person. If a member of the crew other than the remote control operator is visually determining the direction of movement, that crewmember must confirm the direction of the movement with the remote control operator. If the remote control operator is not provided information regarding the direction of the movement, the movement must be immediately stopped.

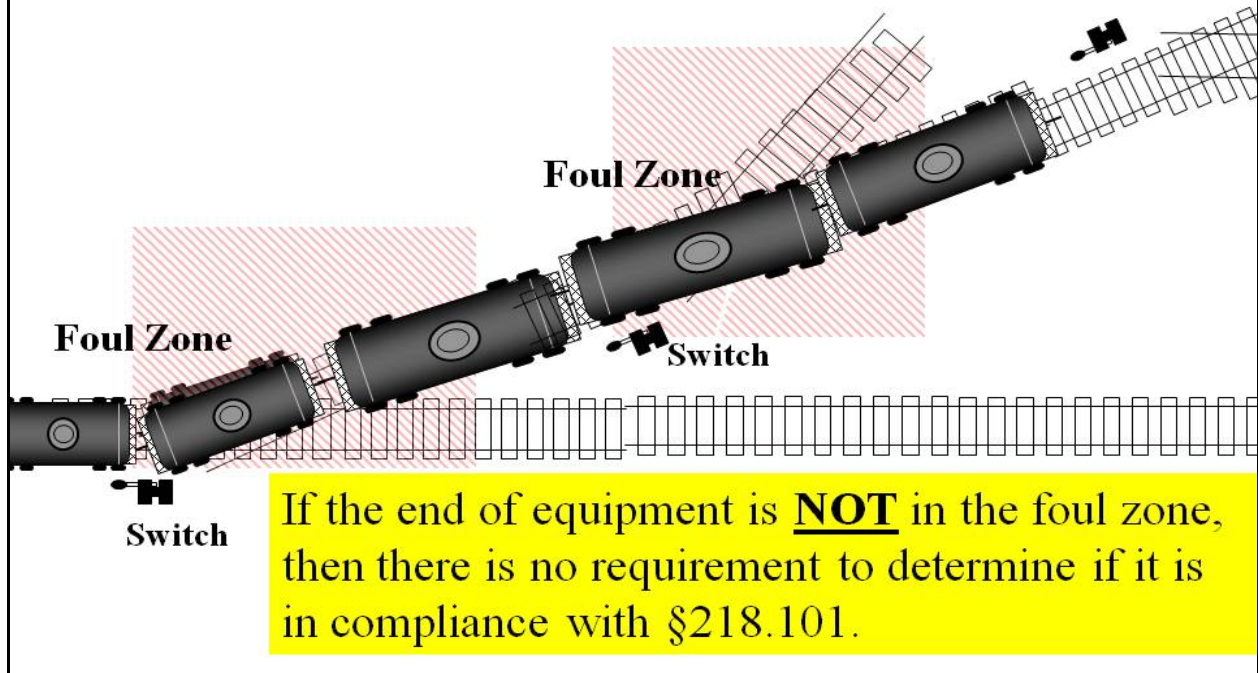
Remote control zones (RCZ) can only be used when: the zone is active; **when the controlling locomotive consist is on the leading end in the direction of movement (i.e., the movement is on the pull-out end)**; when the RCZ is not jointly occupied; and, when a crewmember has made the initial “track is clear” determination. Movements that are not on the pull-out end must have point protection even when inside an active RCZ. Please refer to § 218.99 for complete RCZ requirements.

§ 218.101 – Leaving rolling and on-track maintenance-of-way equipment in the clear**Operating Rules Guidance:**

Inspectors should review the railroad’s operating rules to ensure compliance with § 218.101(a), which requires the railroad to adopt and comply with an operating rule which complies with the requirements of this section.

§ 218.93 Definitions – *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 points leading to the track on which the equipment is standing.

**This diagram indicates that there is NO
End of equipment in the Foul Zones.**



Information needed for violation reports submitted under this section

The OP Division and the Office of Chief Counsel have noticed that some violation reports submitted under this section do not contain all of the information needed to confirm that a violation occurred. The narrative statement in a violation report should contain all of the relevant facts so that anyone reading the report can determine that the incident was a violation. The following information is needed:

- The type of track that the equipment was located on (e.g., main track, siding track, yard switching lead track, industry track, etc).
- How the inspector verified that the equipment was left standing. For example, the inspector watched the switching crew shove the equipment there and left it to make another switching movement. Another common example is that the inspector entered the location and observed that nobody was working near the equipment that was fouling; then, the inspector contacted the yardmaster or other railroad official to determine why the equipment appears to be left fouling.
- How the inspector verified that the equipment was fouling. Increasingly, this determination is being made by taking photos of the equipment past a fouling mark painted on the rails; however, try to take a sufficient number of photos to establish not

just the marker, but to give a greater perspective of how the fouling created a trap for other train crews.

- A schematic or map of the location where the violation was found. For example, some reports contained an annotated yard map showing exactly where the equipment was located. The map might also point to the location of a relevant switch and state which way the switch was found lined. A yard map that contains and identifies the types of tracks works best; however, a map pulled from the internet is often still helpful.
- The railroad rules required under this regulation to identify the clearance point at that specific location and a confirmation that that rule is the most current applicable rule at that location.
- Address in the narrative the location of the car regarding the clearance points as noted in the Railroad Operating Rules Identifying Clearance Points guidance herein.

In addition, when submitting a violation report for equipment in the foul situation, the report must contain sufficient information to establish that none of the four exceptions found in § 218.101(b) applies. Clearly explain which of the four applies and which of the four do not apply. The best way to do this is to reprint the four exceptions verbatim in the report and immediately explain after each exception why it does not apply.

Each violation submitted must clearly address in the narrative if the equipment was:

1. Standing on a **main track** and a siding track switch that the equipment is fouling is lined for the main track on which the equipment is standing.
2. Standing on a **siding track** and a main track switch that the equipment is fouling is lined for the siding on which the equipment is standing
3. Standing on a **yard switching lead track**, and the yard track switch that the equipment is fouling is lined for the yard switching lead track on which the equipment is standing
4. Standing on an **industry track** beyond the clearance point of the switch leading to the industry

Clearance points

Each railroad shall implement procedures that enable employees to identify clearance points and a means to identify locations where clearance points will not permit a person to safely ride on the side of a car, in accordance with § 218.101(c).

Question: Can FRA force a railroad to paint clearance marks on the tie or rail?

Answer: No. The requirement is that “each railroad, whether at the system, division, or terminal level, shall implement **procedures** for instructing employees who handle equipment so that the employees can identify clearance points and avoid leaving equipment out to foul.” Painting marks on rails or ties is only one approved method of implementing procedures.

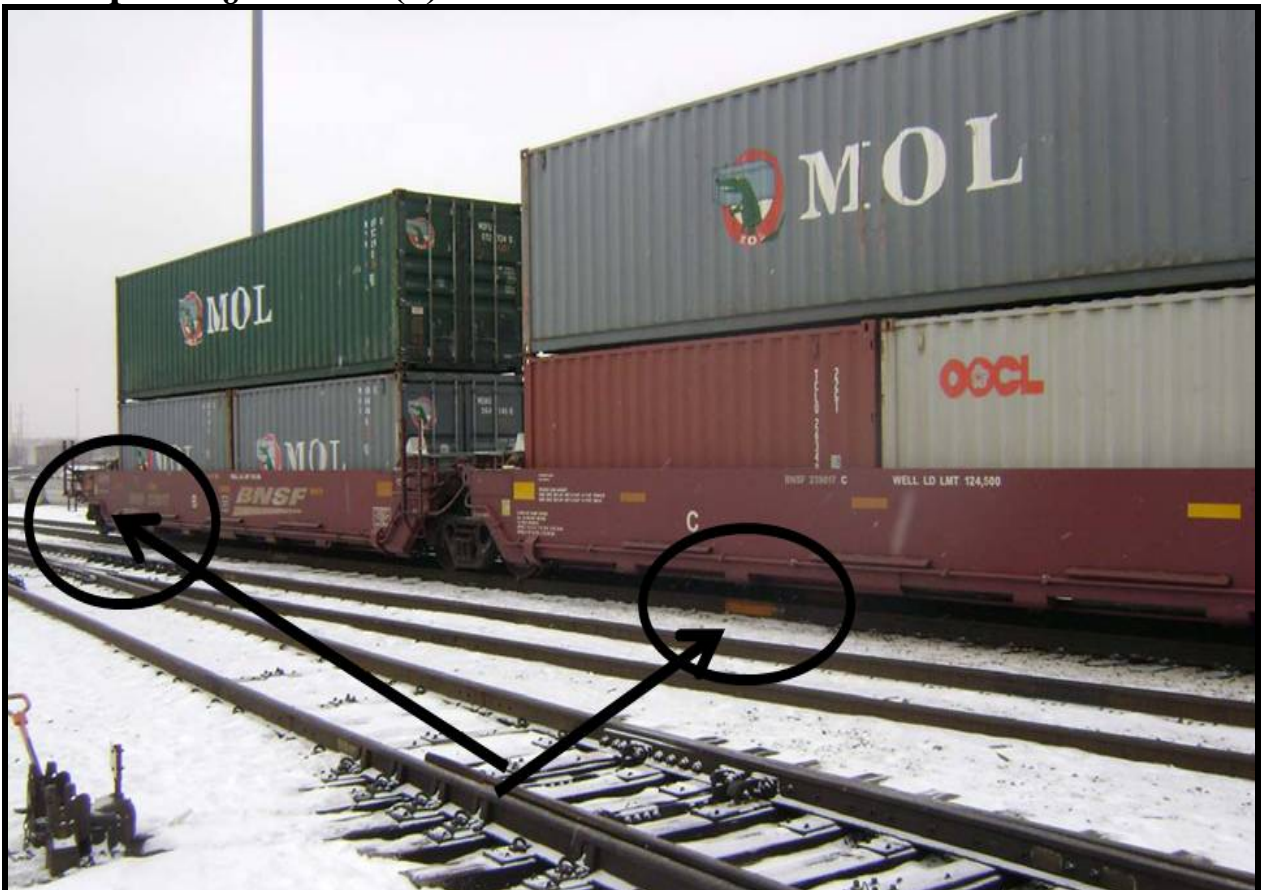
When clearance points are not identified on or near the track, railroads must institute procedures for instructing employees on how to calculate clearance points; e.g., a railroad may choose to implement a procedure requiring employees to stand next to the rail and extend an arm to simulate the width of equipment. Great care should be used in instituting procedures for determining clearance points so that the margin of error is appropriate where employees are permitted to ride the side of a car and as the clearance point would be further back on the track for employees with bigger or longer bodies than the average person.

This section is not intended to apply to close clearance as it relates to buildings, loading docks, or doorways, although a railroad may choose to provide procedures for implementing safe operations under such circumstances. (73 FR 8482).

Equipment past the clearance points, but not physically fouling adjacent tracks

When inspectors encounter instances of equipment that is noncompliant with the railroad operating rules, such as when the equipment is left standing beyond the painted marks on the rail designated by the railroad as a “clearance point”, but the equipment is **NOT** physically fouling the adjacent track, inspectors should record the noncompliance as **a § 218.101(a) defect/violation.**

Example of § 218.101(a)



These cars are **NOT** fouling the adjacent track, but they are past the clearance point noted in the railroad operating rules. This non-compliance should be recorded under **§218.101 (a).**

Equipment physically fouling adjacent tracks

When inspectors encounter instances of equipment left standing that is physically fouling adjacent tracks and the exceptions noted in § 218.101(b)(1) through (b)(4) are not applicable, inspectors **should record the noncompliance as a § 218.101(b) defect/violation.**

Example § 218.101(b)



These cars are fouling the adjacent track, and are past the clearance point noted in the railroad operating rules. This noncompliance should be recorded under **§218.101 (b).**

Distinguishing between physically fouling the adjacent track and when merely only past the clearance point.

The reason an inspector's inspection report should distinguish deficiencies recorded as equipment that has been left standing in the foul and physically fouling an adjacent track, and when the equipment has been left standing past the clearance points but is NOT physically fouling the adjacent track, is that there is specific language in § 218.101(a) makes any noncompliance with a railroad operating rule/procedure subject to enforcement by FRA.

However, equipment left standing past the clearance points but NOT physically fouling the adjacent track poses a lesser risk to safety than equipment that is physically fouling the adjacent track. Therefore, it is recommended that inspectors consider the circumstances before deciding on enforcement procedures when the equipment is NOT physically fouling the adjacent track. For example, a violation under § 218.101(a) may be warranted if the inspector observes one or more crews routinely in noncompliance with the painted clearance marks. This pattern of noncompliance can lead to a deterioration of the underlying railroad rule/procedure and its importance.

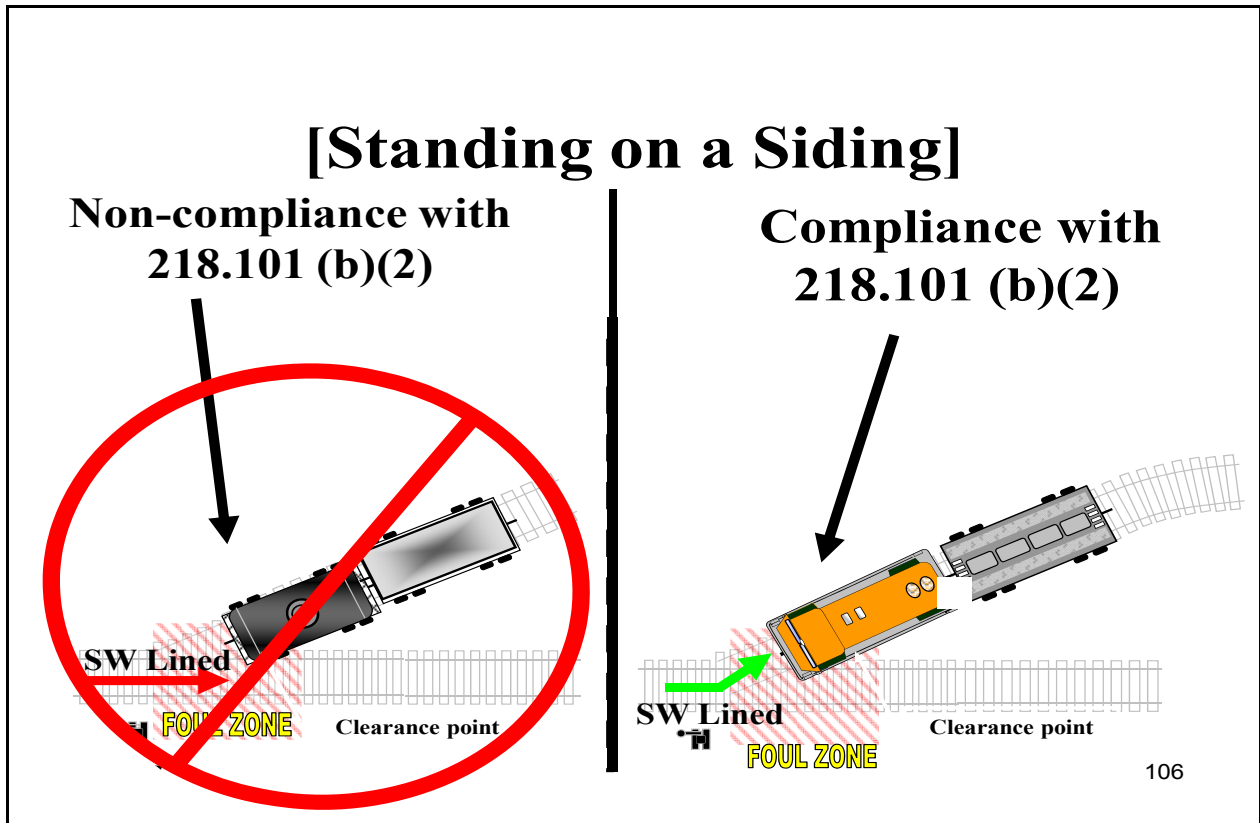
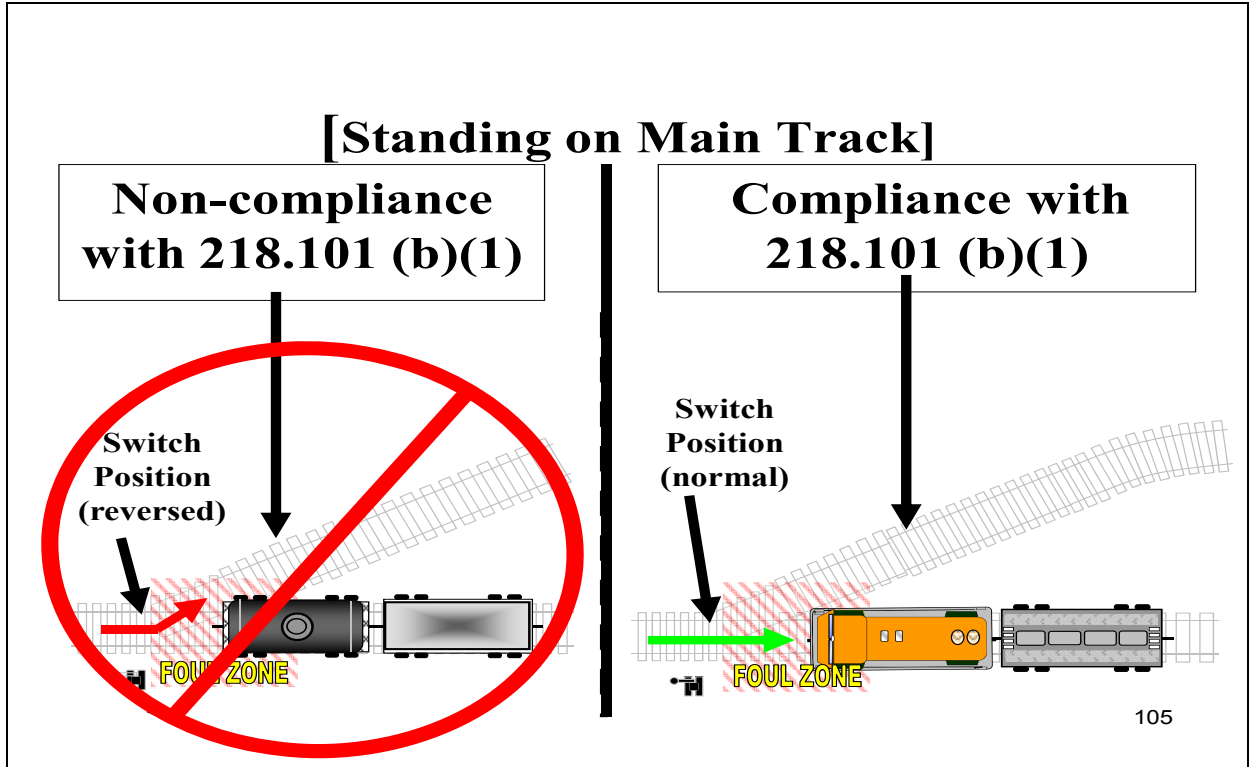
As noted above regarding all defects/violations recorded on an inspection report, ensure the narrative descriptions are clear, accurate, and detailed. It should clearly explain the specific noncompliance, and if it is a noncompliance for § 218.101(b), specifically state if each item (1)–(4) apply to the particular scenario.

Each violation submitted must address in the narrative if the equipment was:

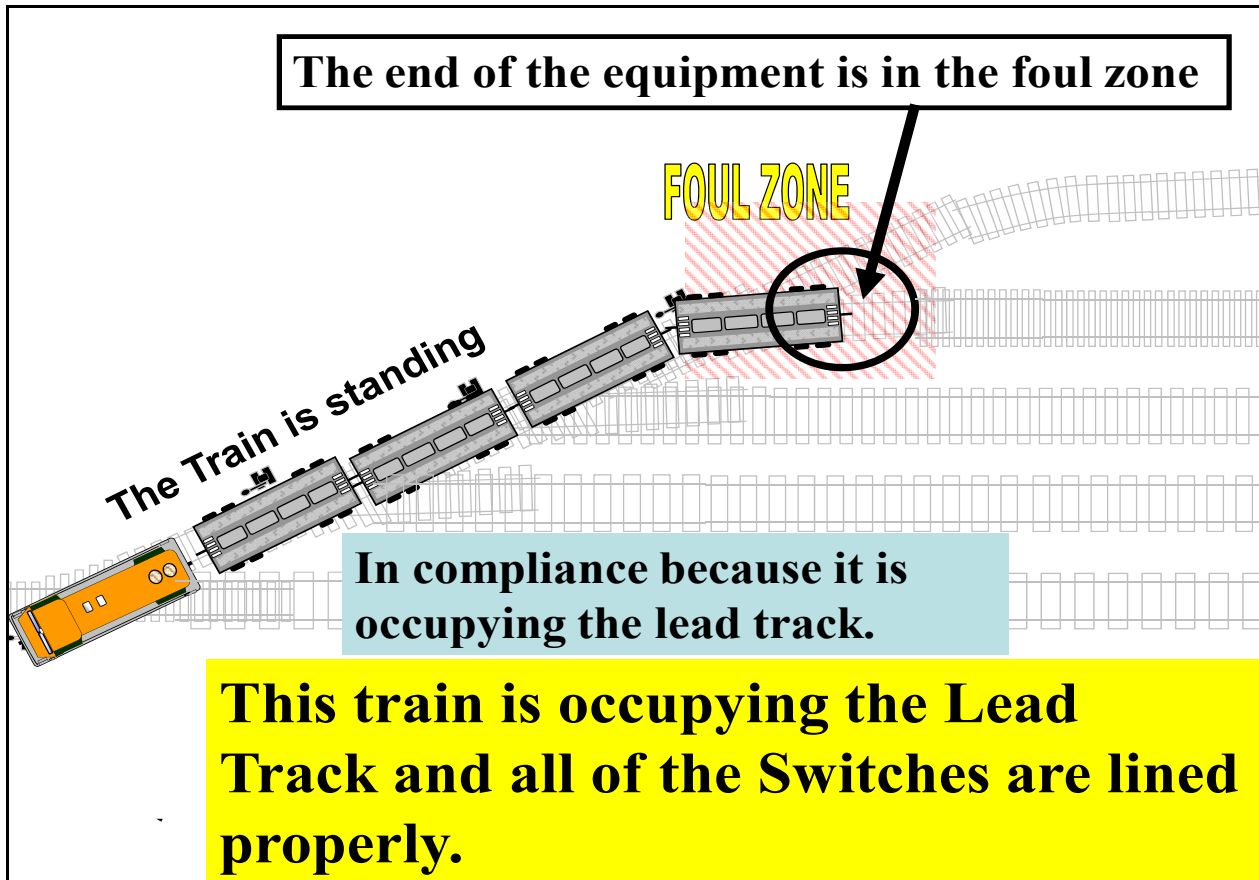
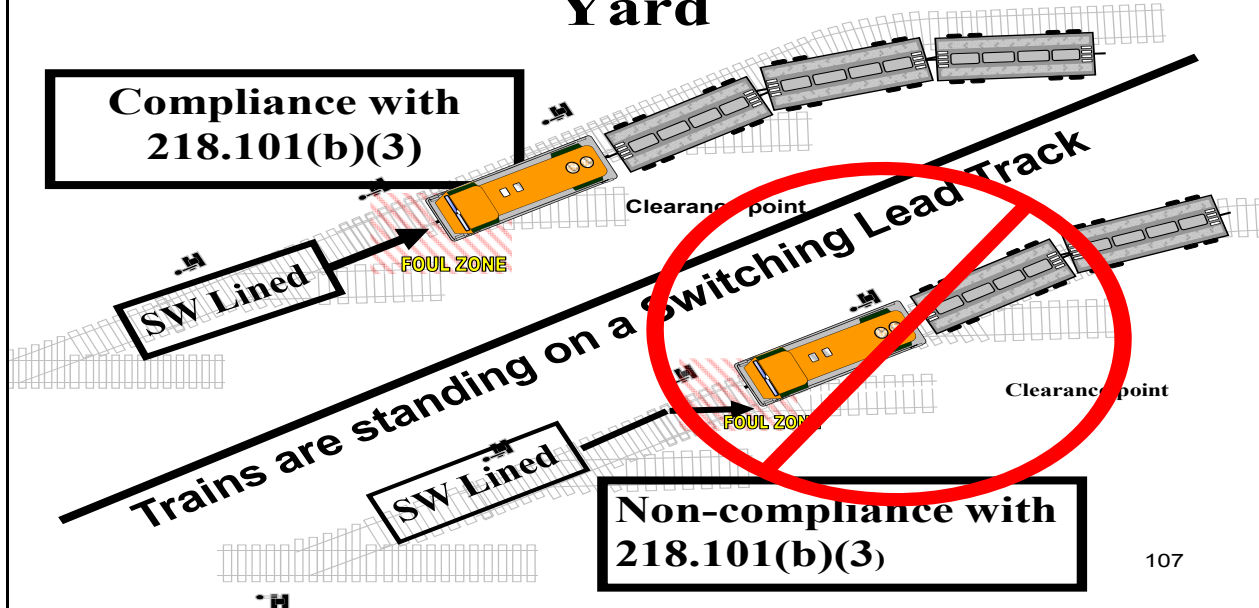
1. Standing on a main track and a siding track switch that the equipment is fouling is lined for the main track on which the equipment is standing.
2. Standing on a siding track and a main track switch that the equipment is fouling is lined for the siding on which the equipment is standing
3. Standing on a yard switching lead track, and the yard track switch that the equipment is fouling is lined for the yard switching lead track on which the equipment is standing
4. On an industry track beyond the clearance point of the switch leading to the industry.

Examples of compliance and noncompliance with this section

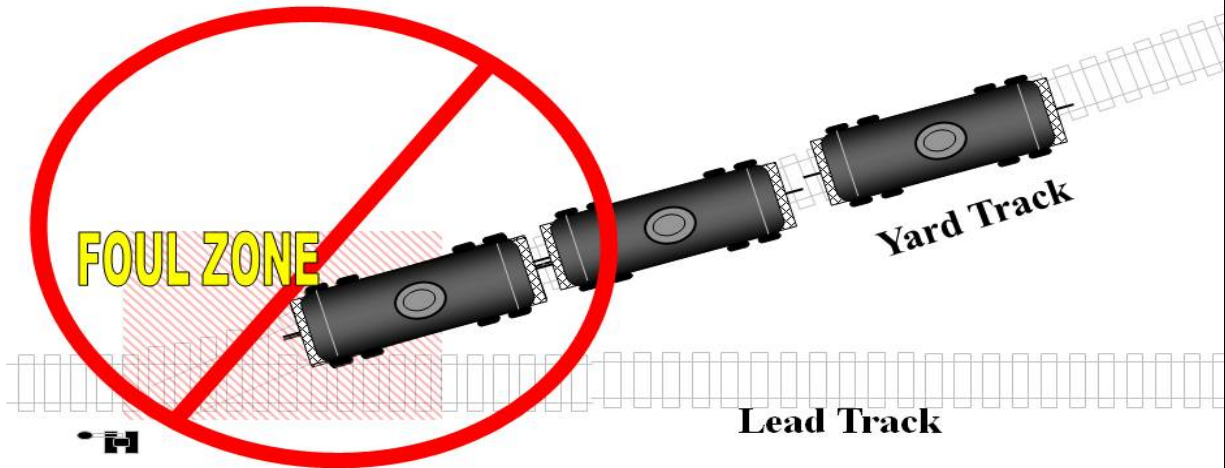




Subpart F – Leaving Equipment in Yard



The standing equipment on a Yard Track should not foul a lead track.



Switch can be lined either way



West end of a car repair shop.

Question - Is it permissible for the car dept to leave cars in the foul between these two tracks? Employee states that if they can leave cars in foul they could work on more cars at the same time.

Answer – The regulation includes car repair facilities and cars left standing should comply with §218.101

Equipment in the foul guidance

Maintenance Facilities.

This regulation does include maintenance facilities. Inspectors will not find a “yard switching lead” in a maintenance facility. This is because the intent of the exception for a “yard switching lead” [§ 218.101(b)(3)] is for a bona fide yard switching lead in a freight classification yard. Maintenance facilities will not meet those criteria.

Noncompliance in maintenance facilities and classification yards.

OP inspectors should be cognizant that there may be some situations where there is noncompliance with the fouling requirements, but the situation poses no safety hazard. FRA recognized this possibility when it promulgated the final rule implementing Subpart F, and FRA intends to exercise appropriate discretion in regard to enforcement of § 218.101.

As FRA explained in the preamble to the final rule (73 FR 8482):

Because of the many different types of track arrangements that are atypical, it would be difficult to craft a rule that fully encompasses every such arrangement and excepts those that pose no danger. Where there is truly an atypical arrangement that appears to violate this section but poses no true safety hazard, FRA intends to consider the safety implications when deciding whether to exercise its enforcement authority.

Kicked cars observed in the foul

During switching operations that involve kicking cars, inspectors should ensure that the switches are not lined until the equipment is completely in the clear. In the field, inspectors will make sure that equipment CANNOT be left on a yard track fouling the lead, EVEN during continuous switching operations. Good judgment and a good understanding of the regulation are important when an inspector is in the field walking a yard or observing train or yard crews performing switching operations. For example:

- If equipment that is kicked into a track did not make it into the clear and that equipment is observed by an OP inspector, the inspector should find the situation acceptable if the equipment is moved into the clear soon thereafter.
- If the train crew is switching a cut of cars and the car kicked is the equipment in the foul, and that car is not an immediate safety concern, the crew should be considered in compliance if they continue switching the cut of cars. If the crew leaves the area or goes farther down in another track, those facts should be described in a violation report if the inspector chooses to take exception to the event.

Inspectors should use good judgment when enforcing this regulation. As with any enforcement action, an inspector is expected to make the specific factual circumstances and a railroad’s compliance history the main considerations for whether a violation is warranted. When enforcing the cars out to foul rules, please also consider the following background information found in the preamble to the final rule (73 FR 8482):

Leaving equipment in the foul accounted for 5% of all human factor accidents during the four-year period 2003 through 2006. The RSAC acknowledged that there are other elements in the NPRM [Notice of Proposed Rulemaking] 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 RSAC 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.

§ 218.103 – Hand-operated switches, including crossover switches

Operating Rules Guidance:

Inspectors should review the railroad's operating rules to ensure compliance with § 218.103(a), which requires the railroad to adopt and comply with an operating rule which complies with the requirements of this section.

General Guidance

The definition of a hand-operated switch is:

§ 218.93 Definitions.

Hand-operated switch means any type of switch when operated by manual manipulation. For purposes of this subpart, a hand-operated switch does not include switches operated by push button or radio control when such switch is protected by distant switch indicators, switch point indicators, or other visual or audio verification that the switch points are lined for the intended route and fit properly.

When determining if a switch is a hand-operated switch inspectors should be cognizant that the definition above specifically requires a verification that the switch points fit properly. This would include power switches that have been placed on hand and therefore meet the definition of hand-operated switch.

Employees operating or verifying the position of a hand-operated switch shall:

- Conduct job briefings before work begins, each time a work plan is changed, and at the completion of the work assigned. Each railroad shall specify minimum requirements necessary for an adequate job briefing.
- Be qualified on the railroad's operating rules relating to the operation of the switch.
- Visually determine that switches are properly lined for the intended route and that no equipment is fouling the switches.
- Visually determine that the points fit properly and the target, if so equipped, corresponds with the switch's position.