



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, D.C. 20590

JUL 15 2014

Mr. Ben Sweat  
3939 N. Webb  
Wichita, KS 67226

Ref. No.: 14-0092

Dear Mr. Sweat:

This is in response to your email dated May 8, 2014, requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) relating to the § 173.31(g) requirements for the use of rail tank cars. You describe the process used by your facilities to load tank cars, whereby a string of railcars are connected to a facility operated trackmobile or motorized railcar mover throughout the loading process. The trackmobile is used to position each set of one or two tank cars in the string for loading.

You ask if the § 173.31(g)(1) requirement that access to the track must be secured to prevent entry by other rail equipment, including motorized service vehicles, applies to facility operated motorized vehicles such as the trackmobile used as described. You also ask if the trackmobile needs to be disconnected from the from the tank cars during loading and unloading operations.

Based on the information provided, it is the opinion of this office that the intent of § 173.31(g) is to warn rail crews of the general rail transportation system of the status of a particular rail car or series of rail cars on a facility's rail system, and prevent them from attaching to or moving the rail cars when it is unsafe to do so. This regulation is not intended to apply to facility operated motorized vehicles that are being used to move and position tank cars in support of loading and unloading operations. Further, § 173.31(g) does not address whether such facility operated motorized vehicles may remain connected to tank cars during loading or unloading operations.

I trust this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,

Shane C. Kelley  
Acting International Standards Coordinator  
Standards and Rulemaking Division

**Drakeford, Carolyn (PHMSA)**

Babich  
§173.31(g)(1)  
Tank Cars

**From:** INFOCNTR (PHMSA)  
**Sent:** Thursday, May 08, 2014 5:13 PM  
**To:** Drakeford, Carolyn (PHMSA)  
**Subject:** FW: Clarification Request for 49 CFR 173.31(g)(1)

14-0092

Hi Carolyn,

This caller requested we submit this e-mail as a formal letter of interpretation. He previously spoke with Michael Stevens in the HMIC on 5/8/14.

Thanks,

Victoria

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**From:** Ben Sweat [mailto:[bensweat@poetep.com](mailto:bensweat@poetep.com)]  
**Sent:** Thursday, May 08, 2014 4:30 PM  
**To:** INFOCNTR (PHMSA)  
**Subject:** Clarification Request for 49 CFR 173.31(g)(1)

As discussed on the phone with Mike from the Hazardous Materials Information Center on May 8, 2014, I would like to request an official interpretation of 49§173.31(g)(1) as it pertains to motorized service vehicles operated by facility personnel. Our facilities produce and load fuel ethanol into railcars through loading equipment that can fill either one or two railcars at one time. Typically, the facilities will leave a string of railcars connected to a trackmobile or similar motorized railcar mover through the loading process. Once each set of railcars is loaded, disconnected from the loading equipment, sealed and inspected, the railcars are indexed with the trackmobile to position the next set of cars for loading.

Our specific question: Do the regulations under 49§173.31(g) apply to the facility operated motorized service vehicle (trackmobile) in this example? Do facility operated motorized service vehicles need to be disconnected from tankcars during loading and unloading operations?

The regulation states: *Each hazmat employee who is responsible for loading or unloading a tank car must secure access to the track to prevent entry by other rail equipment, including motorized service vehicles. Derails, lined and locked switches, portable bumper blocks, or other equipment that provides an equivalent level of security may be used to satisfy this requirement.*

We believe the regulations do not apply to the facility operated motorized service vehicle in this example based on language in PHMSA interpretation 13-0055, PHMSA interpretation 05-0129 and the increased risk to facility and railroad personnel that could be created by disconnecting this equipment during loading operations.

PHMSA interpretation 13-0055: *Further, the Federal Railroad Administration (FRA) and PHMSA want to assure that, at the point of physical interface between the general system of rail transportation and the facility rail system, rail crews do not make inappropriate assumptions about the status of a particular rail car or series of rail cars and attempt to move cars that are attached to facility storage tanks or manufacturing processes, thereby endangering rail crew safety or adversely affecting movement along the general system of rail transportation.* Based on this interpretation, we believe the intent of the regulation is to protect railroad personnel from attempting to move a railcar in the loading process. By applying this regulation to the facility operated motor vehicle, the plant would be required to place the derails, blue flag and other

warning systems between the facility operated motor vehicle and the tankcars being loaded. This process would likely obscure the regulated warning systems from the rail crews and create a higher risk scenario for all involved. Therefore, we believe the regulation intends to create a warning and barrier between railroad operated equipment and facility operated equipment to protect railroad personnel.

PHMSA interpretation 05-0129: *Thus, as stated in the October 30 final rule, "requirements related to the protection of train and engine crews operating within a shipper or consignee facility, such as posting warning signs, setting hand brakes, and blocking the wheels of hazardous materials tank cars placed for unloading would continue to apply" (68 FR 61918).* This interpretation also demonstrates the intent of the regulation to protect railroad personnel from attempting to move a railcar in the loading process and does not appear to apply to facility operated equipment.

Increased risk to facility personnel: We believe disconnecting the facility operated motor vehicle from the tankcars during the loading process would increase risk to facility personnel due to the unnecessary increase in connecting and disconnecting railcars from the motorized vehicle, as well as the increased movement and application of blue flags at the onset and completion of loading for each set of railcars in the connected string. We also believe that the facility operated motorized vehicle could provide an additional visual deterrent behind the blue flags and derail to warn the railroad personnel to avoid the connected railcars.

Based on the above and our phone discussion with the Hazardous Materials Information Center, we would like an official interpretation of this regulation as it pertains to facility operated motorized service vehicles.

Thank you,

**Ben Sweat**



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