

PORT OF TEXAS CITY

TEXAS CITY TERMINAL RAILWAY COMPANY

Mr. Shane Kelley
Director, Standards and Rulemaking Division
U.S. DOT/PHMSA (PHH-10)
1200 New Jersey Avenue, SE East Building, 2nd Floor
Washington, DC 20590

RE: REQUEST FOR FORMAL LETTER OF INTERPRETATION

Dear Mr. Kelley:

This letter is a request for a Formal Letter of Interpretation to the train placement requirement for the movement of hazmat cars to customers of the Texas City Terminal Railway Company (TCTRR).

Factual description of movement:

The TCTRR is a terminal switching railroad consisting of other than main track operation tracks (FRA GCOR 6.28) that are 10 MPH maximum speed that does not handle trains as defined in HMG-123. We provide switching services to our chemical industry partners with primarily petroleum products shipments. Our industry partners are located on leased property owned by the Port of Texas City – Texas City Terminal Railway Company. We switch cars between the TCTRR terminal and our industry partners that restrict movements to cars destined to and from their facilities only. Most of the products handled are ethanol, diesel fuel, and gasoline. We do not handle any explosive or TIH/PIH cars but do handle corrosive, flammable, and combustible cars. The only non-hazmat cars that are handled in our facility are the buffer cars that come to us with the unit ethanol trains.

TCTRR believes that by the definition shown in HMG-123, our operation should be classified as a switching operation only. We further believe that the restriction for car placement found in our switching instructions is sufficient for the movements being made in our terminal to be defined as "switching operations". We use the Union Pacific Railroad form 8620 as our instructions to our crews. We give our crews hazmat paperwork as part of our normal process, and we keep the current Emergency Response Guidebook on all locomotives.

Thank you for your consideration of our request. Please contact me at 409-739-0231 or tbrown@tctrr.com with any questions.

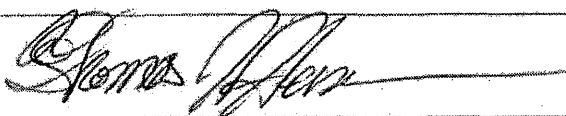
Respectfully,

A handwritten signature in blue ink, appearing to read "TK Brown", with a long horizontal flourish extending to the right.

TK Brown
Director of Rail Operations

HAZARDOUS MATERIALS GUIDANCE

Issuance Date: January 2018	HM Guidance Number: HMG-123
Revision: 1	49 CFR Sections Affected: 171.8
Key Words: Definition of a "train" that describes when the hazardous materials regulations apply	
Approved: Thomas J. Herrmann Director, Office of Technical Oversight	



Summary:

This Hazardous Materials Guidance document provides guidance on the application of the term "train" as defined in the Federal hazardous materials transportation safety regulations (HMR) at Title 49 Code of Federal Regulations (CFR) § 171.8. The term is relevant to determining when the HMR's train placement and hazard communication requirements apply. See 49 CFR § 174.85 and 49 CFR Part 172, Subparts C-G.

Discussion:

The operation of a "train" transporting hazardous materials requires the proper placement within the train of all cars carrying hazardous materials. Additionally, the train crew must have documentation for the hazardous materials cars that meets the requirements of the HMR. See 49 CFR §§ 174.85 (train placement requirements) and 174.26 (notice to train crew requirements).

The HMR defines "train" as:

one or more engines coupled with one or more rail cars, except during switching operations or where the operation is that of classifying and assembling rail cars within a railroad yard for the purpose of making or breaking up trains.

Given this definition, "switching operations" must mean something different from "classifying and assembling cars for the purpose of making or breaking up trains," otherwise the definition is redundant. "Switching service," according to a common railroad dictionary¹, "consists of moving cars from one track to another track or to different positions on the same track. It includes the moving of cars in the make-up and break-up of trains; also, moving cars on industrial switching tracks or interchange tracks, and the general movement of cars within terminals or at junctions." The Supreme Court² has described switching operations as "sorting, or selecting, or classifying.

cars involving coupling and uncoupling, and the movement of one or a few at a time over short distances." It follows that switching operations are railroad operations in yards, sidings, and industries where the air brake rules do not apply.

In a letter to Southern Pacific dated March 3, 1980, FRA explained the term "train" as it related to FRA's air brake regulations:

A train consists of one or more locomotives coupled to one or more cars except during operations involving switching. Although the lines are not always clearly drawn, where there is a movement of a considerable number of cars for more than one mile, without any setting out or picking up cars enroute, that movement involves a train rather than a locomotive performing switching. Other factors that indicate a train are transfers between yards and crossing of public highways or other railroad tracks at grade. Movements on mainline track and use of road crews and locomotives are not essential for a train.

To summarize, if the air brake rules apply to a movement, it is a train and the train placement and hazardous materials documentation rules apply³. In addition, because interchange operations involve the transfer of custody/responsibility with the cars, transfer movements, regardless of the applicability of the air brake rules, are not considered switching.

¹ *Railway Age's Comprehensive Railroad Dictionary*, p. 143, Simmons-Boardman Publishing Company, ©1984.

² *United States v. Seaboard Air Line Railroad Co.* 361 US 78, 81 (1959).

³ Operations not covered by the air brake rules are nonetheless covered by the requirements for emergency response information: 49 CFR §§ 172.600 through 172.604.