

Concentrated Hazardous Explosive Material Storage in Tank or Rail Cars

Purpose

Given the potential catastrophic impacts to life and property of an incident with concentrations of hazardous explosive material stored in tank or rail cars within the Village;

Given that Federal regulation (49 CFR 174.14) specifies that tank cars loaded with Division 2.1 (flammable gas), 2.3 (poisonous gas), and Class 3 (flammable liquid) may not be held at any point subject to forwarding orders, and therefore these materials cannot be stored by a railroad awaiting a final destination;

Given hazardous material tank cars stored by a railroad on track that is not private (including cars constructively placed), are still in transportation & considered being “stored incidental to movement,” and therefore hazardous material rules apply (inc. security plan requirement, placarding, marking, securement, emergency response info., etc.); (The storing railroad is responsible for compliance, the same as any other hazardous material car being transported.)

Given that the offering and unloading of class 2 materials is prohibited unless the materials are destined for private track or railroad facilities meeting certain conditions; (See 49 CFR 173.10 and 174.204.)

Given that railroads are prohibited from transporting class 3 materials unless the materials are consigned to private track or railroad facility that meets certain conditions for unloading; (See 49 CFR 174.304.)

Given that the US Court of Appeals, Second District has ruled in Green Mountain R.R. Corp. v. Vermont, 404 F.3d 638, 643 (2d Cir. 2015): ... “generally applicable, non-discriminatory regulations and permit requirements,” such as “[e]lectrical, plumbing and fire codes, [and] direct environmental regulations enacted for the protection of the public health and safety,” were the kind of regulation that could withstand ICCTA preemption;

Given that the North Bennington Spur is not a private track, and no formal exclusive designation has been recorded, the following requirements shall be adhered to.

Requirements

The rail carrier shall keep an accurate electronic and paper consist of any rail cars containing hazardous and explosive materials of Class 2 or 3 located on the North Bennington Spur track. The consists shall be available for review by the Bennington Town or Village of North Bennington emergency responders. The log shall accurately record the individual car designations, the DOT tank or rail car type, the hazardous material class, (eg. Class 2.1 for Petroleum Gas, Liquefied) and the time of their placement or removal. If the cars are stored incidental to movement, the distance between cars shall be recorded.

The Bennington Fire Department shall be contacted by telephone within two hours of the placement of or removal of storage of any hazardous and explosive tank or rail cars when located on the North Bennington Spur track. The rail carrier shall affirm that the consist indicates accurately the distance between tank or rail cars.

The concentrated storage of hazardous explosive material in tank or rail cars within the Village for a duration greater than 48 hours shall not be permitted, where the term concentrated shall mean railcars capable of containing 32,000 gallons of liquid petroleum gas or its equivalent flammable potential are closer in distance from one another than 1,750 feet, measured head shield to head shield. Exception: two or more DOT type TC-117 tank cars may be stored no closer in distance from one another than 500 feet, measured head shield to head shield.