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How we interpret ‘public railway’

This policy’s purpose

This policy sets out how we interpret ‘public railway’ in the context of a ‘protected place’ under the Health and Safety at Work (Hazardous Substances) Regulations 2017 (the Regulations).

A public railway doesn’t include:

- any area outside the footprint of a railway line, or set of railway lines, that a rail vehicle carrying members of the public may run on, or use.
- railway sidings that are only used for the movement of goods.

What does the law say?

The Railways Act 2005 defines ‘railway’. It includes the rail infrastructure, rail vehicles, and other property (other than rail premises). This includes property and vehicles that together are used for the purposes of transporting people or goods by rail. A ‘rail vehicle’ is any vehicle that runs on, or uses, a railway line.

Under the Regulations, a ‘protected place’ includes a ‘public railway.’ While ‘railway’ is defined in the Railways Act, ‘public railway’ isn’t defined in the Regulations or other legislation.

What we consider a public railway

We consider a ‘public railway’ to be any railway line that a rail vehicle carrying members of the public may run on, or use. For this policy, ‘railway line’ means rails and sleepers.

A public railway includes:

- railway sidings that a rail vehicle carrying members of the public may run on, use, or be left on for any period of time.

What does this mean in practice?

As ‘public railway’ appears in the definition of ‘protected place’ in the Regulations, all portions of any railway line that rail vehicles carrying members of the public may run on, or use, are considered a ‘protected place’.

A PCBU (person conducting business or undertaking) with management or control of hazardous substances should consider the proximity of their hazardous substances to railway lines when calculating separation distance requirements under the Regulations. It may need a written agreement from the railway line owner under regulation 9 of the Regulations.¹

PCBUs should consider the status of all nearby railway lines and the likelihood that any of those railway lines may be classified as a public railway in the future. They should also consider the possibility of any new railway developments.

Regardless of whether a nearby railway line is a ‘public railway’, general duties under Health and Safety at Work Act 2015 apply.

¹ For more information go to [Hazardous substances located near property boundaries](#)