



U.S. Department
of Transportation

1200 New Jersey Avenue SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety
Administration**

DEC 21 2011

Bret Ulibarri
Rinchem Company, Inc.
111 Hayes Memorial Drive
Marlborough, MA 01752

Reference No.: 11-0231

Dear Mr. Ulibarri:

This is in response to your September 6, 2011 letter and follow-up telephone discussion concerning the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) as they pertain to the segregation of hazardous materials being shipped in accordance with the International Maritime Dangerous Goods Code (IMDG Code). Specifically, you present a scenario where Class 2.3 material poisonous by inhalation, Hazard Zone A is transported in the same freight container as Class 2.1 material. Section 177.848 of the HMR prohibits the highway transportation of these two materials in the same transport vehicle. However, Chapter 7.2, Section 7.2.1.16 of the IMDG Code does not prohibit transport or require the segregation of these two materials. Therefore, the loads are prepared in accordance with the IMDG Code, for shipment via highway from your facility directly to the port for export on a vessel. You ask whether §171.25(d)(1) of the HMR authorizes these loads, prepared in accordance with the IMDG Code, to be shipped via highway from your facility in Marlborough, Massachusetts to the Port of New York.

The authority you are seeking is not found in §171.25(d)(1). Rather, these shipments are appropriately authorized pursuant to §171.25(b)(1) of the HMR.

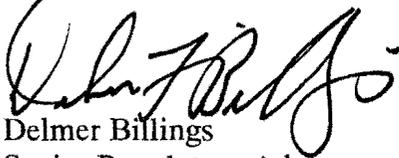
The scope of §171.25(d)(1) of the HMR is limited to transportation by motor vehicle within a single port area, including contiguous harbors when shipments of hazardous materials are packed, marked, classed, labeled, stowed, and segregated in accordance with the IMDG Code. Marlborough, Massachusetts is not within the port area of the Port of New York.

However, §171.22, of the HMR does authorize, with certain conditions and limitations, the offering for transportation and the transportation in commerce of hazardous materials in accordance with the IMDG Code. The conditions and limitations specified are enumerated in §171.22, §171.23, and §171.25 of the HMR. If each of these requirements is met, and the hazardous materials shipment is prepared in accordance with the IMDG Code, §171.25(b)(1) of the HMR provides that for transportation by motor vehicle on a public highway, the segregation requirements of Part 7, Chapter 7.2 of the IMDG Code are authorized.

To summarize, provided the shipments are prepared in accordance with the IMDG Code, and are in conformance with the applicable conditions and limitations specified in §171.22, §171.23, and §171.25 of the HMR, loading Class 2.3 material poisonous by inhalation, Hazard Zone A and Class 2.1 material in the same freight container for transportation by highway and vessel is acceptable.

I hope this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Delmer Billings". The signature is fluid and cursive, with a large initial "D" and "B".

Delmer Billings
Senior Regulatory Advisor
Standards and Rulemaking Division



Rinchem Company Inc.
111 Hayes Memorial Drive Marlborough MA 01752

Babich
8171.25(c)(d)(1)
IMDG
11-0231

September 6th 2011

U.S. DOT
PHMSA Office of Hazardous Materials Standards
Attn: PHH-10
East Building
1200 New Jersey Avenue, SE.
Washington, DC 20590-0001

Dear Sir/Ma'am

I am writing to you to obtain an interpretation of a particular Hazardous materials regulation that impacts how my company arranges for the transport of hazardous materials from the US to Israel. Rinchem consolidates gases into ocean containers for our customers and some of these gases are Class 2.3 with a poison by inhalation hazard zone A, which is prohibited from shipping in the same cargo container as Class 2.1 flammable gases according to DOT regulations. There are no such restrictions for IMDG to my knowledge and my company has been exporting according to IMDG regulations for years.

A new drayage carrier we have been using recently rejected a load we arranged and loaded that contained Class 2.3 Poison Inhalation Zone A and Class 2.1 gases on the grounds of DOT prohibition. Because we are shipping directly from facility to the port of export, we countered with DOT regulation **171.25(c)(d)(1)** to justify our act of using IMDG segregation rules over DOT segregation rules in this case. The drayage company still refused to transport the load stating that DOT segregation regulations still must be observed even when transporting directly to the port of export.

Please review the regulation 171.25(c)(d)(1) for relevance to our situation and advise if my company has been correctly interpreting the law. Please also advise if I am missing something that pertains to this situation so that we can comply in kind.

Best regards,

Bret Ulibarri

508-658-7019

Rinchem Company

Marlborough MA
To
PART of NJ