



U.S. Department  
of Transportation  
**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

December 10, 2024

Daniel D. Barner  
Austin Powder  
28500 Science Park Dr.  
Cleveland, OH 44122

Reference No. 24-0054

Dear Mr. Barner:

This letter is in response to your June 25, 2024, letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the loading and unloading of hazardous materials from a vessel without written permission (i.e., a permit) obtained from the Captain of the Port (COTP), as specified in § 176.415(b). Specifically, you ask whether “UN3375, Ammonium nitrate emulsion” and “UN0332, Explosive, blasting, Type E” packaged in IM 101 and IM 102 portable tanks are materials that may be loaded on or unloaded from a vessel at a waterfront facility without a permit from the COTP.

The answer is no. Neither UN3375 nor UN0332 is included in the list of Division 1.5, ammonium nitrates and certain ammonium nitrate fertilizers that may be loaded on or unloaded from a vessel at any waterfront facility without a permit, according to § 176.415(b). While Division 1.5D materials in rigid packaging with non-combustible inside packaging are permitted to be loaded or unloaded without a permit from the COTP as specifically listed in § 176.415(b)(3), IM 101 and IM 102 portable tanks do not meet this standard, as they do not typically contain inside packagings of any kind. You may apply for a special permit for the exception you described by applying to the Associate Administrator for Hazardous Materials Safety in conformance with the requirements prescribed in 49 CFR Part 107, Subpart B. You may obtain information on the special permit application process from our website at <https://www.phmsa.dot.gov/approvals-and-permits/hazmat/hazardous-materials-approvals-and-permits-overview>, or by calling PHMSA’s Approvals and Permits Division at (202) 366-4511.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dirk Der Kinderen".

Dirk Der Kinderen  
Chief, Standards Development Branch  
Standards and Rulemaking Division

Casey  
24-0054

Dear Sir/Madam

I respectfully request an interpretation concerning the inclusion as a non-permitted commodity the following product when shipped in IM 101 & IM 102 portable tanks via vessel as those listed in 49 CFR 176.415(b)(1-3)

UN 3375, Ammonium nitrate emulsion, 5.1, PG II (IME SLP 23) & (SP-8723)

**UN 0332, Explosive, blasting type E, 1.5D, PG II (IME SLP 23) & (SP-8723)**

This product would need to be included in 49 CFR 176.415 (b) (1-5) similar to the following products:

UN 1942, Ammonium Nitrate, 5.1, PG II

UN 2067, Ammonium Nitrate Fertilizer, 5.1, PG II, and

Division 1.5, compatibility Group D

The product is stable and safe to be transported in IM 101 & IM 102 Portable tanks as allowed in Section I of IME SLP 23 and DOT SP-8723.

The forementioned product will be shipped from ports on the West Coast to Ports in Hawaii and used to support infrastructure projects on the Islands of Hawaii.

Thank you for the quick action and assistance in issuing the requested interpretation.

If you have any questions of concerns, I can be contacted at the following address and phone number.

Daniel D Barner

25800 Science Park Drive

Cleveland Oh 44122

Phone - 216-678-4610 email - daniel.barner@austinpowder.com

### **§ 176.415 Permit requirements for Division 1.5, ammonium nitrates, and certain ammonium nitrate fertilizers.**

**(a)** Except as provided in paragraph (b) of this section, before any of the following material is loaded on or unloaded from a vessel at any waterfront facility, the owner/operator must obtain written permission from the Captain of the Port (COTP).

**(1)** Ammonium nitrate UN1942, ammonium nitrate fertilizers containing more than 70% ammonium nitrate, or Division 1.5 compatibility group D materials packaged in a paper bag, burlap bag, or other nonrigid combustible packaging, or any rigid packaging with combustible inside packaging's,

(2) Any other ammonium nitrate or ammonium nitrate fertilizer not listed in § 176.410(a) or (b).

(b) Any of the following may be loaded on or unloaded from a vessel at any waterfront facility without a permit:

**(1) Ammonium nitrate, Division 5.1 (oxidizer) UN1942, in a rigid packaging with a noncombustible inside packaging.**

**(2) Ammonium nitrate fertilizer, Division 5.1 (oxidizer) UN 2067, if the nearest COTP is notified at least 24 hours in advance of any loading or unloading in excess of 454 kg (1,000 pounds).**

**(3) Division 1.5 compatibility group D material in a rigid packaging with non-combustible inside packaging.**