



U.S. Department  
of Transportation  
**Research and  
Special Programs  
Administration**

400 Seventh St., S.W.  
Washington, D.C. 20590

JAN 10 2002

Mr. Edward Doheny  
Chemist, CHMM  
Quadra Chemicals Western, Inc.  
Regulatory Affairs Department  
5700 NW Front Avenue  
Portland, OR 97210

Reference No.: 02-0011

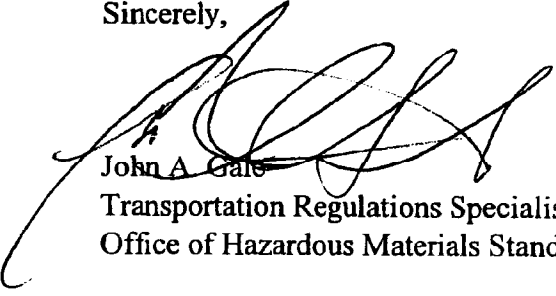
Dear Mr. Doheny:

This is in response to your letter requesting clarification relating to shipments of "foodstuffs" in the same motor vehicle with material that is labeled POISON GAS under the provisions of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if it is permissible to transport Division 2.3 materials in the same transport vehicle with material known to be foodstuffs.

The answer is yes. Section 177.841(e)(1) does not restrict the transportation of Division 2.3 materials from being transported with foodstuffs; the restriction in § 177.841(e)(1) applies only to materials bearing a POISON or POISON INHALATION HAZARD label in Division 6.1.

I trust this satisfies your inquiry.

Sincerely,

  
John A. Gale  
Transportation Regulations Specialist  
Office of Hazardous Materials Standards

177.841(e)(1)



Corbin  
§ 177.841(e)4.

January 7, 2002 Segregation

02-0011

Mr. Edward T. Mazzullo  
Director of Hazardous Materials Standards  
U.S. DOT / RSPA  
DHM-10

Dear Mr. Mazzullo,

I am writing to request a clarification of, and in, 49 CFR 177.841 (e) (1) relating to shipments of "foodstuffs" loaded in the same vehicle / trailer with material(s) of hazard class 2, division 3 (i.e. Poison Gas). Specifically, I am asking for a clearer language statement in the above section of the CFR and an update to the interpretation letter dated June 27, 1997.

The reasons for this request are:

- 1) The above referenced interpretation letter was written in 1997, however the class 2, division 3 labels and placards have been changed in the CFR to have a skull and crossbones at the top and inhalation hazard written across the middle replacing the older labels and placards with Poison Gas written across the middle and no skull and crossbones at the top of the label or placard.
- 2) On 01/04/02, a Quadra truck was cited for a violation of 49 CFR 177.841 (e) (1), in that the truck had cylinders of Chlorine gas and some "foodstuffs" on board when it was stopped at an Idaho - Port of Entry. The DOT inspector, even after being notified of the June 27, 1997 interpretation letter and being told that said letter had been confirmed as still in effect by a phone call to your offices in Washington D.C. that morning, told me the violation was valid and to go to the Jefferson County Magistrate Court in Rigby, Idaho if I wished to contest it.
- 3) In checking with the Oregon DOT inspection and enforcement office, an inspector with over a decade of field experience told me that it is a violation to ship class 2, division 3 hazardous materials with "foodstuffs" because those hazardous materials are poison inhalation hazards as evidenced by the skull and crossbones and inhalation hazard written on the label and placard, and this is what 49 CFR 177.841 (e) (1) is regulating.

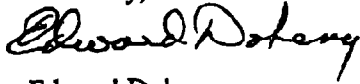
Therefore, it appears that some, if not many, experienced DOT inspection and/or enforcement personnel are interpreting the new class 2 and class 6 labels and placards to be the same in interpreting 49 CFR 177.841 (e) (1) requirements. These field interpretations directly contradict what I was told by two of your staff was your official interpretation, when I explained the entire situation to them.

Additionally, I was told that I will need to present, in the near future to the above court, certified documents from your office stating that the above presumed violation is in fact not a violation, as the violation paperwork would be turned over to the county prosecutor promptly.

Quadra Chemicals Western, Inc.  
Regulatory Affairs Department  
5700 NW Front Avenue  
Portland, OR 97210  
Phone: 503-242-0200 Fax: 503-412-3390

If you have any questions or require further information, please call me at (503) 242-0200  
ext. 354.

Sincerely,

A handwritten signature in cursive script that reads "Edward Doheny".

Edward Doheny  
Chemist, CHMM