

Independent Container Line Ltd 5620 Cox Road Glen Allen, Virginia 23060-9296 Phone (804) 222-2220

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8/21/12

The Public Utilities Commission of Ohio Attention: Docketing Division 180 East Broad Street, 11th. Floor Columbus, OH 43215-3793

Request for Administrative Hearing Reference: Case No. 3211301845S

Dear Sirs,

Due to a misunderstanding from our part we were not able to fully discuss the assessment of this fine during our conference on July 26, 2012. Based on this, a Notice of Preliminary Determination was issued by your agency. We respectfully ask that the following be taken into consideration at this time;

According to the MSDS for the material in question, Azoxystrobin 18.2% (Syngenta product name Quadris Top), it is classified as a Class 9 Marine Pollutant under the current IMDG Code "criteria-based" system, but is not listed as a marine pollutant in Appendix B to §172.101 of the DOT Hazardous Materials Regulations (HMR) – and, therefore, is not required to be considered a marine pollutant under the HMR.

Note 4 in Appendix B provides that any material that meets the current IMDG Code criteria for a marine pollutant may be transported as a marine pollutant in accordance with the applicable provisions of the HMR (i.e., even though not specifically listed in Appendix B).

Based on the above, our interpretation is that in this case a fine based on not having the UN# on the Placards or on Markings outside the trailer would not apply as the product can move as Non-Hazmat under the HMR. Please consider this fact in your decision. I would be the contact for ICL in this matter.

Respectfully yours,

G Esteves

guillermo.esteves@icl-ltd.com

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Technician ______ Date Processed AIG 2 2 2012



Todd A. Snitchler, Chairman

Commissioners

Cheryl Roberto Steven D. Lesser Andre T. Porter Lynn Slaby

AUGUST 6, 2012

MR G ESTEVES INDEPENDENT CONTAINER LINE LTD 5620 COX ROAD GLEN ALLEN, VA 23060

RE: NOTICE OF PRELIMINARY DETERMINATION

Case No. 3211301845S

Officer:

Dear MR ESTEVES:

On February 29, 2012 , a vehicle operated by CRETE CARRIER CORPOR and driven by ROSE PARIS, was inspected within the State of Ohio. As the result of discovery of the following apparent violation the Staff timely notified Respondent pursuant to Rule 4901:2-7-07, O.A.C., that it intended to make a civil monetary assessment against Respondent in the following amount:

Code

Violation

172.331

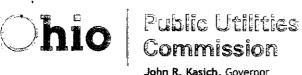
Markings for other bulk packages

\$ 720.00

Total Forfeiture Assessed :

A conference was conducted pursuant to Rule 4901:2-7-10(B), O.A.C., at which the Respondent had a full opportunity to present any reasons why the violation did not occur as alleged, mitigating circumstances regarding the amount of any forfeiture, and any other information relevant to the action proposed to be taken by Staff.

(continued)



John R. Kasich, Governor Todd A. Snitchler, Chairman Commissioners

Cheryl Roberto Steven D. Lesser Andre T. Porter Lynn Slaby

AUGUST 6, 2012 MR G ESTEVES INDEPENDENT CONTAINER LINE LTD 3211301845S

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As a result of the conference, Staff has made a Preliminary Determination that the Commission should make a civil monetary assessment against INDEPENDENT CONTAINER LINE LTD in the following forfeiture:

Code

Violation

172.331

Markings for other bulk packages

\$ 720.00

Total Forfeiture Agreed :

Please include a certified check or money order for the N.P.D. forfeiture total, made payable to "Treasurer State of Ohio," and mail to: PUCO FISCAL, 180 E. Broad St, 4th floor, Cols. OH 43215-3793. FOR PROPER CREDIT, BE SURE TO PUT THE CASE NUMBER ON THE FACE OF THE CHECK.

Please consult the enclosed additional information concerning this Notice of Preliminary Determination.

Robert E. Marvin, Director Transportation Department

Public Utilities Commission of Ohio