NOV - 7 1997

U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

DOT-E 11991

**EXPIRATION DATE: December 1, 1997**

(FOR RENEWAL, SEE 49 CFR SECTION 107.105.)

1. GRANTEE: Cabot Performance Materials
Boyertown, Pennsylvania

2. PURPOSE AND LIMITATION: This emergency exemption, issued in conjunction with a Transport Canada "estoppel", authorizes the rail / highway transportation, in commerce, from the Canadian point of entry in the United States to the origin shippers facility in Boyertown, Pennsylvania of 34 non-specification bulk packages, containing a class 7 low specific activity radioactive material which may also exhibit corrosive characteristics. These packages meet all DOT requirements except that 10 of the packages were verified to have experienced leaks and 24 of the packages have the potential to leak therefore not meeting the "strong tight" packaging requirements for the material. This exemption provides no relief from any regulations other than as specifically stated.

3. REGULATORY SYSTEM AFFECTED: 49 CFR Parts 106, 107 and 171-180.

4. REGULATIONS FROM WHICH EXEMPTED: 49 CFR 173.24; 173.427(c) & (f); 174.700(a) and 177.842(c).

5. BASIS. This emergency exemption is based on MHF Logistical Solutions, Incorporated's application of October 31, 1997, as agent for Cabot Performance Materials, submitted in accordance with 49 CFR 107.117, and a determination that it is necessary to protect life and property.

6. HAZARDOUS MATERIALS (49 CFR 172.101):

| Hazardous Materials Description | | | |
|---|---|---|---|
| **Proper Shipping Name** | **Hazard Class/ Division** | **Identification number** | **Packing Group** |
| Radioactive material, low specific activity, n.o.s. | 7 | UN 2912 | N/A |

7. PACKAGING(S) and SAFETY CONTROL MEASURES:

a. PACKAGING - Packagings prescribed are non DOT specification strong tight bulk packagings as authorized by 49 CFR 173.427(c)(1), meeting all DOT requirements except that the bulk packages were intended for solid materials only and the material contained within the packages had an elevated moisture content which resulted in minor leakage from the packages..

b. The grantee of this exemption or the grantees designated agent and the carrier, as appropriate, shall ensure that:

1. All gondola cars used to transport the overpacked packages by rail meet all applicable requirements of 49 CFR Parts 215, 231 and 232 prior to movement.

2. The overpack safeguards as stated in the exemption application and implemented by the applicant are in place and maintained during transportation of the packages to the origin shippers location.

8. SPECIAL PROVISIONS - RAIL

a. Shipment of the gondola cars containing the packages is authorized from the Canadian point of entry into the United States at Niagara Falls, NY to the Delaware and Hudson Railroad railhead in Taylor, Pennsylvania, a distance of approximately 220 miles, utilizing the routing of SL&H-SK yard, Buffalo-D&H-Taylor.

b. All conditions stipulated in the Canadian "estoppel" certificate, i.e speed restrictions, block movement of cars, etc., shall apply to the rail portion of the move in the United States.

c. The two-way end of train device shall be in place and operational at all times during the rail movement.

d. Prior to departure from SK Yard in Buffalo an inspection of the gondola cars transporting the bulk packages addressed by this exemption shall be conducted by the appropriate railroad personnel and Federal Railroad Administration personnel to ensure the integrity of the overpacked packages in the gondola cars prior to proceeding to Taylor, PA.

e. A copy of this exemption shall be provided to the train crew as part of their documentation to be carried in the cab of the locomotive and they shall be advised of the nature of the exemption.

f. Prior to release of the gondola cars back into general freight service the holder of this exemption or the designated agent of the holder of this exemption shall ensure that the cars at a minimum comply with 49 CFR 174.715(a) for cleanliness after transport.

SPECIAL PROVISIONS - HIGHWAY

a. All motor vehicles used to transport the overpacked packages by highway meet all applicable requirements of the Motor Carrier Safety Regulations in accordance with 49 CFR 177.804.

b. A thorough inspection will be conducted of each bulk package upon transloading from gondola car to motor vehicle at the Taylor, PA intermodal facility to ensure that the integrity of the overpack safeguards implemented is retained.

c. The highway transportation to the shippers facility in Boyertown, PA will utilize major roads and interstates to the extent practicable.

d. No stops or delays in transport will occur between the Taylor, PA intermodal facility and the shippers facility in Boyertown, PA, except for emergencies only.

e. Prior to release of the motor vehicles used to transport the packages the holder of this exemption or the designated agent of the holder of this exemption shall ensure that the motor vehicles, at a minimum, comply with 49 CFR 177.843(a) for cleanliness after transport.

9. MODES OF TRANSPORTATION AUTHORIZED. Rail and Highway freight.

10. MODAL REQUIREMENTS

a. The Federal Railroad Administration (FRA) and the Federal Highway Administration are to be notified if any unusual incident occurs during the movement by contacting:

Federal Railroad Administration
Office of Safety Assurance and Compliance, RRS-12
Hazardous Materials Division, Mail Stop 25
400 Seventh Street, S.W.
Washington, D.C. 20590
(202) 632-3384 or 632-3376

Federal Highway Administration
Office of Motor Carrier Safety and Technology
Safety and Hazardous Materials Division
400 Seventh Street, S.W.
Washington, D.C. 20590
(202) 366-6121 or 366-8759

11. COMPLIANCE. Failure by a person to comply with any of the following may result in suspension or revocation of this exemption and penalties prescribed by Federal hazardous materials transportation law, 49 U.S.C. Section 5101 et seq:

- All terms and conditions prescribed in this exemption and the Hazardous Materials Regulations, 49 CFR Parts 171-180.

- Registration required by 49 CFR 107.601 et seq., when applicable.

Each "Hazmat employee", as defined in 49 CFR 171.8 who performs a function subject to this exemption must receive training on the requirements and conditions of this exemption in addition to the training required by 49 CFR 172.700 and 172.704.

No person may use or apply this exemption, including display of its number, when the exemption has expired or is otherwise no longer in effect.

12. REPORTING REQUIREMENTS.

a. The carrier is required to report any incident involving loss of packaging contents or packaging failure to the Associate Administrator for Hazardous Materials Safety (AAHMS) as soon as practicable. (49 CFR 171.15 and 171.16 apply to any activity undertaken under the authority of this exemption.) In addition, the holder of this exemption must inform the AAHMS, in writing, of any incident involving the package and shipment made under the terms of this exemption.

Issued at Washington, D.C.:

NOV - 7 1997

(DATE)

Alan I. Roberts
Associate Administrator
for Hazardous Materials Safety

Address all inquiries to: Associate Administrator for Hazardous Materials Safety, Research and Special Programs Administration, Department of Transportation, Washington, D.C. 20590. Attention: DHM-31.

The original of this exemption is on file at the above office. Photo reproductions and legible reductions of this exemption are permitted. Any alteration of this exemption is prohibited.

Dist: FRA / FHWA
PO: KB (FRA)