U.S. Department
of Transportation

**Research and
Special Programs
Administration**

JUL 17 [illegible]

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

DOT-E 12066

EXPIRATION DATE: June 30, 2000

(FOR RENEWAL, SEE 49 CFR SECTION 107.109)

1. GRANTEE: KMG Bernuth, Inc.
Houston, Texas

(See Appendix A to this exemption for additional grantees)

2. PURPOSE AND LIMITATION:

a. This exemption authorizes the reuse of UN 13H2 Flexible Intermediate Bulk Containers (FIBCs) with replaceable polyethylene liners for the transportation in commerce of 2,000 pound blocks of pentachlorophenol. This exemption provides no relief from any Hazardous Materials Regulation (HMR) other than as specifically stated herein.

b. The safety analyses performed in development of this exemption only considered the hazards and risks associated with transportation in commerce. The safety analyses did not consider the hazards and risks associated with consumer use, use as a component of a transport vehicle or other device, or other uses not associated with transportation in commerce.

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

4. REGULATIONS FROM WHICH EXEMPTED: 49 CFR 173.35(b) in that flexible intermediate bulk containers may be reused.

5. BASIS: This exemption is based on the application of KMG Bernuth, Inc. dated April 7, 1998, submitted in accordance with 49 CFR 107.105 and the public proceeding thereon.

6. HAZARDOUS MATERIALS (49 CFR 172.101):

Proper Shipping Name/ Hazardous Materials Description	Hazard Class/ Division	Identi-fication Number	Packing Group
Pentachlorophenol	6.1	UN3155	II

7. SAFETY CONTROL MEASURES:

a. PACKAGING - Packaging prescribed is a UN13H3 flexible intermediate bulk container, with a non-reusable, removable six mil polyethylene liner. The FIBC has a capacity of approximately 2000 pounds.

b. OPERATIONAL CONTROLS -

1. REUSE - No FIBC marked with the exemption number in paragraph 8.c. above shall be used more than three times. The total number of uses for each bag must be recorded. Records must be kept in accordance with paragraph 7(b)(3).

2. INSPECTION - Before reuse, each bag must pass an inspection which includes, as a minimum, the items which follow:

(1) The bags used more than once must be in such condition, including closure devices, that they conform in all respects to the prescribed requirements of this exemption and to 49 CFR 173.24, as applicable.

(2) Prior to filling for reuse, each bag must be inspected and judged suitable for reuse. Only bags with no wear or flaws may be reused. The inspection must be of all sides, top and bottom, and all lifting straps and attachments, and must include as a minimum, the following:

(i) General Appearance - must be free of holes, abrasions, and tears, regardless of size.

(ii) Lifting straps

- Must be free of cuts and abrasions.
- Torn stitching must not exceed 1 inch of the total length of sewing/strap attachment to the FIBC.

NOTE: Possible defect may be indicated by the strap first beginning to peel away from the body at the top of the FIBC.

(iii) Seams - clawing/zippering of stitching must not exceed 1/4".

NOTE: Maximum stress causing stitching to "open up," also referred to as clawing and/or zippering, occurs approximately 1/3 of the way up the seam from the bottom of the FIBC.

(iv) Markings - All markings must be legible.

(v) Fill/Discharge Spouts - must be free of tears, with cordlocks intact.

(vi) UV Damage - Ultraviolet ray damage is indicated by the woven polypropylene becoming stiff and/or cracking. The FIBC must be rejected for reuse if the fabric of the FIBC appears to be less flexible than new fabric or if the FIBC fabric shows signs of cracking.

3. RECORDKEEPING - The total number of uses of each bag and dates of shipments must be logged and recorded. A bag rejected by the reuse inspection must have reason for rejection and person performing inspection recorded. After each bag has been reused over a two-year period or has completed three shipments, a summary of the transport experience and data, including reused bag and rejection reports, must be sent to Office of Hazardous Materials Exemptions and Approvals.

4. Drivers must have been instructed as to necessary safeguards and proper procedure in the event of unusual delay, fire, or accident.

8. SPECIAL PROVISIONS:

a. A person who is not a holder of this exemption who receives a package covered by this exemption may reoffer it for transportation provided no modifications or changes are made to the package and it is reoffered for transportation in conformance with this exemption and the HMR.

b. A current copy of this exemption must be maintained at each facility where the package is offered or reoffered for transportation.

c. MARKING -Each bag must be permanently and durably marked in accordance with requirements of 49 CFR 172.331 with letters at least two inches high on a contrasting background. Each bag must also be marked:

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REUSABLE

The use of labels, tags or signs for marking purposes is prohibited.

9. MODES OF TRANSPORTATION AUTHORIZED: Motor vehicle.

10. MODAL REQUIREMENTS: A copy of this exemption must be carried aboard each motor vehicle used to transport packages covered by this exemption.

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 the 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 through 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: 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(s) of this exemption must inform the AAHMS, in

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writing, of any incident involving the package and shipments made under the terms of this exemption.

Issued at Washington, D.C.:

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Alan I. Roberts
Associate Administrator for
Hazardous Materials Safety

(DATE)

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.

Copies of exemptions may be obtained from the AAHMS, U.S. Department of Transportation, 400 7th Street, Washington, DC 20590-0001, Attention: Docket Section, 202-366-5046.

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