U.S. Department
of Transportation

**Research and
Special Programs
Administration**

SEP 17 1993

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

DOT-E 10807

EXPIRATION DATE: March 31, 1995

1. GRANTEE: U.S. Environmental Protection Agency (EPA), New York, New York, and contractors performing remediation functions under the control of EPA, Region II.

2. PURPOSE AND LIMITATION: This exemption authorizes soils and debris contaminated with low levels of radionuclides originating from radium or its primary ores to be offered and transported in commerce with regulatory relief from certain material packaging requirements, the need to radioassay each package in order to determine total and specific activity for hazard classification, certain regulatory hazard communication requirements, and certain carrier reporting requirements. This exemption provides no relief from any regulation other than those specifically stated.

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

4. REGULATIONS FROM WHICH EXEMPTED: 49 CFR Part 107, Subpart B, Appendix B, Paragraph (1); Sections 171.15(a)(2); 171.16; 172.3; 172.202; 172.203(d); 172.310; Part 172, Subparts F and G; Sections 173.22(a)(1); 173.421; 173.421-1(a); 173.425(b); 174.24(a); 174.25; 174.45; 174.59; 174.750; 177.807; 177.817; 177.823; and 177.843(a).

5. BASIS: This exemption is based on the Environmental Protection Agency's application dated May 21, 1992, and supplemental information dated September 18, 1992, submitted in accordance with 49 CFR 107.103 and the public proceedings thereon.

6. HAZARDOUS MATERIALS (49 CFR 172.101):

Hazardous materials description/proper shipping name	Hazard Class/ Division number	Identification number	Packing Group
Radioactive material, LSA, n.o.s.	Class 7	UN2912	N/A
Radioactive material, excepted package-limited quantity of material, n.o.s.	Class 7	UN2910	N/A

7. SAFETY CONTROL MEASURES:

a. PACKAGING - Each packaging must satisfy the requirements of 49 CFR 173.425 (b)(1), (2), and (3). The packagings are one cubic yard polypropylene bags or other packagings that satisfy applicable Department of Transportation (DOT) requirements and are suitable for the soil and debris of the remediation program if the material met either of the proper shipping names identified in paragraph 6.

b. TESTING -

(1) The total activity and the specific activity do not need to be determined by radioassay for the materials contained in each packaging. The hazards of the materials being transported are adequately determined by the radioassays and tests/analysis of the soils and debris for characterization of the hazards of the sites being remediated and to define the materials to be moved to the disposal site under the remediation program. The site characterization measurements satisfy the requirements of 49 CFR 173.22(a)(1) and 172.3. For purposes of this exemption, the material in the packagings does not need to be classed and described as Radioactive material, LSA, n.o.s., or Radioactive material, excepted package-limited quantity of material, n.o.s., or non-hazardous material.

(2) The radiation levels on the external surface of the rail cars transporting the materials to the disposal site shall not exceed 0.1 mSv/h (10 mrem/h).

(3) Any packagings to be used, other than the one yard polypropylene bags in use prior to this exemption, must satisfy the applicable DOT performance requirements.

c. MARKING -

(1) Each motor vehicle or rail car used for transport of these packaged materials shall be marked on opposite sides with a poster that includes the following statements:

- "This rail car or motor vehicle contains bulk packagings of soils or debris contaminated with very small amounts of radioactive materials from the Montclair/West Orange and Glen Ridge RADIUM SUPERFUND sites. The U.S. EPA and the U.S. DOT have determined that these materials present very low radiological risks to workers, members of the public, and the environment during normal transportation or accident conditions."

- "This shipment is DOT-E 10807."

- "For information or in case of an emergency contact U.S. EPA at 1-800-424-8802."

The poster shall be at least 30 cm x 45 cm (12" x 18") and the wording must be in letters sufficiently large and contrasting for legibility. The poster, the letters, and the means of attachment shall be sufficiently durable and weather resistant for single trips in all seasons.

(2) The requirements of above paragraph satisfy the hazards communication requirements of 49 CFR Part 107, Subpart B, Appendix B, Paragraph (1); 172.310; 172.332; Part 172, Subpart F; 173.421(d); 173-421-1(a); 173.425(b)(7); 173.425(b)(8); 174.59; and 177.823.

d. SHIPPING DOCUMENTS AND EMERGENCY RESPONSE INFORMATION -

(1) Shipping documents carried in the motor vehicle or provided to the rail carrier shall include the following information as a minimum:

- Soils and debris containing small amounts of radioactive material with low radiological hazards.

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- In case of emergencies fire fighting and first aid actions may be performed without concern for the minor hazards of the material.

- For information or in case of emergencies call 1-800-424-8802.

(2) EPA shall provide the rail carriers with information that identifies the appropriate EPA offices to be contacted in the event of emergencies. The cognizant EPA remediation office shall ensure that if an accident or incident occurs, the necessary information concerning hazard information, emergency response suggestions, and clean-up information is communicated to state, local, and other officials along the route.

(3) The requirements of the above paragraph satisfy the shipping paper requirements of 49 CFR 172.202, 172.203(d), 173-421-1(a), 173.425(b)(9), and the emergency response information requirements of 49 CFR Part 172, Subpart G.

8. SPECIAL PROVISIONS.

Materials from remediation sites (Montclair/West Orange and Glen Ridge) in Essex County, New Jersey must be transported by rail from a dedicated siding, under the control of EPA, to a disposal site in Tooele County, Utah. If the contents of each package were assayed, only a small fraction of the materials would be classified as radioactive material as noted in paragraph 6. The materials represent very low radiological risks in the short term conditions of transportation, but the long term chronic radiation exposure risks caused by the materials in the habitable locations being remediated requires the materials to be moved to long term safe locations.

9. MODES OF TRANSPORTATION AUTHORIZED: Motor vehicle and rail freight.

10. MODAL REQUIREMENTS:

a. A copy of this exemption shall be carried in each motor vehicle used to transport materials under this exemption. A copy of this exemption shall be made available to the carriers moving the rail cars used under this exemption, but copies of the exemption are not required to be carried with the documentation aboard each train.

b. Except as provided in paragraph 7(d)(1), carriers are excepted from carrying shipping documents normally required by 49 CFR 174.24(a), 174.25, and 177.817.

c. Motor vehicles and rail cars used in the transport of these materials shall not be used for the transport of other commodities until the EPA has assured that they are thoroughly monitored for radioactive contamination and the contamination levels do not exceed the limits of either 49 CFR 173.443(a) or the applicable standard of the Environmental Protection Agency.

d. After off-loading of packages at the EPA controlled rail siding, motor vehicles do not need to be monitored for contamination according to 49 CFR 177.843(a) before returning to the sites being remediated.

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 Hazardous Materials Transportation Act:

- All terms and conditions prescribed in this exemption and the Hazardous Materials Regulations, 49 CFR Parts 171-180.
- Any use or application of this exemption, including display of its number, when the exemption has expired or it is otherwise no longer in effect unless a regulation has been amended making the exemption no longer necessary.
- Registration required by 49 CFR 107.601 et seq., when applicable.

12. REPORTING REQUIREMENTS.

a. For reporting spills or releases of materials covered by this exemption, carriers are exempt from the reporting requirements of 49 CFR 171.15(2), 171.16, 174.45, and 177.807. Spills or releases exceeding the lesser of 1,500 pounds of material or one tenth of an RQ of radionuclides (49 CFR 172.101, Appendix, Table 2) shall be reported by the Environmental Protection Agency to the Department of Transportation as a requirement of 49 CFR 171.15(2) and 171.16.

b. The carriers shall report all spills or releases of material to EPA in accordance with 49 CFR 174.750, 177.861, and/or the transportation arrangements with EPA. For incidents not involving releases of material during transportation between New Jersey and Tooele County, Utah, the carrier is subject to the reporting requirements of 49 CFR 171.15(2), 171.16, and 174.45.

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.

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