



U.S. Department  
of Transportation

**Research and  
Special Programs  
Administration**

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

JAN 21 1998

Mr. Thomas H. Mitchell  
KMG-Bernuth, Inc.  
10611 Harwin, Suite 402  
Houston, TX 77036

Dear Mr. Mitchell:

This is in response to your letter regarding what constitutes "closed" under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) as it applies to a "closed freight container" or a "closed transport vehicle" containing a material described as "Pentachlorophenol, 6.1, UN3155, II," in flexible, intermediate bulk containers (FIBCs). I apologize for the delay in responding and hope it has not caused in any inconvenience.

A material described as "Pentachlorophenol, 6.1, UN3155, II" (solids only) may be transported in FIBCs, which must be loaded in a closed freight container or a closed transport vehicle (see § 173.242). A freight container is used primarily for containment of packages (in unit form), and a transport vehicle is a cargo-carrying conveyance. A "closed" freight container or transport vehicle means carrying packages within a container or vehicle that has some method of closing. Generally, a flatbed truck or trailer is not a "closed vehicle." However, it is the opinion of this Office that a "tarpred, flatbed trailer with removable, solid sides and back" is acceptable to transport FIBCs, containing a Packing Group II, solid material.

I hope this information is helpful. If we can be of further assistance, please contact us.

Sincerely,

Delmer F. Billings  
Chief, Regulations Development  
Office of Hazardous Materials Standards

Engineering  
File 173-242  
SC: 363540



December 12, 1996

Mr. Edward T. Mazzullo  
Director, Office of Hazardous Materials Standards  
U. S. DEPARTMENT OF TRANSPORTATION  
Research and Special Program Administration  
400 Seventh Street, SW  
Washington, DC 20590

Dear Mr. Mazzullo:

We are confused here about the proper transport method of one of our products and seem to have conflicting advice from our consultant, J. J. KELLER versus information obtained from your Hazardous Materials Information Center. I will attempt below to describe our situation in hopes that you might provide a more exact interpretation of compliance requirements.

Our product details are as follows:

Name: Pentachlorophenol  
Form: Solid 2,000 pound blocks  
Hazard Class: 6.1  
ID: UN 3155  
PG: II

As allowed by Subchapter C Hazardous Materials Regulations, Subpart F, 173.242, we package our product in tested and qualified, flexible IBCs with poly liners. According to (2) (iv) under this paragraph, "Flexible....intermediate bulk containers containing materials in Packing Group II must be packed in a closed freight container or a closed transport vehicle".

The question we have is what constitutes "closed", and we have been unable to locate anything in the regs that addresses this.

Page 2  
December 12, 1996

A competitor is using tarped, flatbed trailers with removable solid sides and back to transport a comparable product packed in a flexible IBC with liner. Our consultant has advised that this method does not constitute "closed" and that an enclosed van is required. The DOT Hazardous Materials Information Center has advised that the former is acceptable transport of our above-described material.

Any assistance in interpretation of requirements for a closed freight container or a closed transport vehicle would be most welcome. The basis question is whether or not flexible IBCs with liners containing a Class 6.1, PG II material may be transported aboard a tarped, flat bed trailer with removable solid sides and back. Additionally, would a tarped flat bed trailer without sides/back be acceptable? Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mitchell".

Thomas H. Mitchell