MAY - 6 1997

U.S. Department of Transportation
Research and Special Programs Administration

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

DOT-E 9440
(FOURTH REVISION)

EXPIRATION DATE: September 30, 1998

(FOR RENEWAL, SEE 49 CFR SECTION 107.109)

1. GRANTEE: Hoover Materials Handling Group, Inc.
Beatrice, Nebraska

2. PURPOSE AND LIMITATION: This exemption authorizes the continued use of non-DOT specification rotationally molded, linear low density polyethylene, wire-framed enclosed portable tank (intermediate bulk container) manufactured prior to October 1, 1996, for the transportation in commerce of certain class 8 and 3 and Division 5.1 materials. This exemption provides no relief from any regulation other than as specifically stated herein.

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

4. REGULATIONS FROM WHICH EXEMPTED: 49 CFR Part 173 Subpart F, Part 178, Subparts N and O in that non-DOT specification packaging is authorized.

5. BASIS: This exemption is based on the application of Hoover Materials Handling Group, Inc., dated November 20, 1996, submitted in accordance with 49 CFR 107.109.

6. HAZARDOUS MATERIALS (49 CFR 172.101):

Hazardous materials description -- proper shipping name	Hazard Class/ Division	Identi-fication Number	Packing Group
Class 8 liquids for which UN 1H1 plastic drums are authorized in and which have no secondary hazards and a pressure of no greater than 14.7 psia at 130°F.	8	Various	II & III
Hydrogen peroxide, aqueous solutions	5.1	UN2014	II
Class 3 liquids compatible with polyethylene which have no secondary hazards and have flash points of 73°F or higher	3	Various	III

Other hazardous materials which have been specifically identified to, and acknowledged in writing by, the Office of Hazardous Materials Exemptions and Approvals (OHMEA) prior to the first shipment.

7. SAFETY CONTROL MEASURES:

a. PACKAGING - Packagings prescribed are non-DOT/UN standard rotationally molded polyethylene intermediate bulk containers (IBCs) of up to 550-gallon capacity, enclosed within a protective wire frame, as shown on or represented in Tote Systems' drawings 341217, 341905, 316683 (Sheets 1 and 2) and 317204, furnished with the petitioner's application. Each tank must be made of linear low density polyethylene which has been specifically identified to and is acceptable to OHMEA. No new construction is authorized.

i. Each portable tank must be permanently marked by embossment or with a metal certification plate permanently affixed to each tank. The markings must be in letters and numbers at least 1/4-inch high located on the side of the tank. The markings shall be understood to certify that the portable tank complies with all requirements of this exmeption and must contain at least the following information:

DOT-E 9440 portable tank
Tank manufacturer _____
Test pressure 15 psig.
Serial number _____
Date of manufacture (month and year)_____
Tare weight _____lbs.
Rated gross weight _____lbs.
Capacity _____U.S. gal.

ii. The minimum thickness of the portable tank, measured at any point on the container, is 0.230 inch. Other detaild of the shipping container must be as depicted in Tote Systems Drawings 341217, 341905, 316683 (Sheets 1 and 2) and 317204, included in petitioner's applications.

b. TESTING - Reuse of any packaging under this exemption must be in accordance with the applicable requirements of 49 CFR 173.28 and 173.32(e) as modified herein. Each packaging must be hydrostatically retested in accordance with 49 CFR 173.32(e) as applicable to DOT Specification 57 tanks, at a test pressure of 15 psig for 5 minutes without a drop in pressure or leakage. Any packaging that fails must be rejected and may not be used again for the transportation of hazardous materials. The date of the most recent periodic retest must be marked on the tank near the packaging identification markings required in paragraph 7.a. of this exemption. The owner of the packaging or authorized agent must retain a written record indicating the date and results of all required tests and the name and address of the tester, until the next retest has been satisfactorily completed and recorded.

c. OPERATIONAL CONTROLS -

i. Packagings with repaired bodies are not authorized.

ii. Commodities must be compatible with the polyethylene packaging, and may not permeate the polyethylene to an extent that a hazardous condition could be caused during transportation and handling.

iii. Packagings for hydrogen peroxide must have a vented closure to prevent accumulation of internal pressure.

iv. Packagings must always be filled and shipped while enclosed within the protective steel frame as shown in the petitioner's application.

8. SPECIAL PROVISIONS.

a. Offerors for transportation of hazardous materials specified in this exemption may use the packaging described in this exemption for the transportation of such hazardous materials so long as no modifications or changes are made to the packages, all terms of this exemption are complied with, and a copy of the current exemption is maintained at each facility from which such offering occurs.

b. Each packaging manufactured under the authority of this exemption must be either (1) marked with the name of the manufacturer and location (city and state) of the facility at which it is manufactured or (2) marked with a registration symbol designated by OHMEA for a specific manufacturing facility.

c. A copy of this exemption, in its current status, must be maintained at each manufacturing facility at which this packaging is manufactured and must be made available to a DOT representative upon request.

d. Shippers using the packaging covered by this exemption must comply with the shipping paper, marking, labeling, and placarding requirements of 49 CFR Part 172; all provisions of this exemption, and all other applicable requirements contained in 49 CFR Parts 100 through 180.

e. MARKING - Each packaging must be plainly marked on both sides near the middle, in letters at least two inches high on a contrasting background, "DOT-E 9440". Additionally, the sides of each portable tank must be marked "KEEP THIS END UP" in two places, 180° apart, with an arrow pointing to the tank top.

f. Consistent with the regulations adopted under Docket HM-181E for intermediate bulk containers (IBCs), exemptions for IBCs of the type covered by those regulations will not allow new construction after September 30, 1996. Existing IBCs may be continued in service, provided renewal provisions under 107.109 are met, until September 30, 1998, under the conditions specified in the exemption that applies to their use. After September 30, 1998, each IBC must conform to, and be certified as meeting a UN IBC standard set forth in Subparts N and O of Part 178 of the Hazardous Materials Regulations (49 CFR).

9. MODES OF TRANSPORTATION AUTHORIZED: Motor vehicle, rail freight and cargo vessel. Shipments by cargo vessel must be made in conformance with Section 26 of the General Introduction to the International Maritime Dangerous Goods (IMDG) Code.

10. MODAL REQUIREMENTS:

a. A copy of this exemption must be carried aboard each motor vehicle and cargo vessel used to transport packages covered by this exemption.

b. Shipments by rail must be in compliance with the requirements of 49 CFR 174.63 and may not be transported on flatcars or on flat trailers, except under conditions approved by the Federal Railroad Administration.

c. For transport by cargo vessel only, the following requirements apply:

i. No hazardous materials listed in the Annex to subsection 26.4 of the General Introduction to the IMDG Code may be carried in a polyethylene portable tank.

ii. Hazardous materials that are listed as suitable for rigid plastic IBCs (Column 5) in Appendix 1 to Section 26 of the General Introduction to the IMDG Code are authorized to be transported in polyethylene portable tanks. Materials that are not listed in that appendix, or that are not allowed for transport in column (5) of the appendix may not be transported in polyethylene portable tanks.

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.

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

Issued at Washington, D.C.:

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(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.

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