



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

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

MAR - 1 2002

Mr. John F. Dinda, Jr.
Dinda and Associates, Inc.
525 Shady Retreat Road
Doylestown, PA 18901

Ref. No. 01-0302

Dear Mr. Dinda:

This responds to your November 30, 2001 letter requesting clarification on § 173.240 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether you may co-load "Waste toxic solids, n.o.s.(carbofuran, carbosulfan), 6.1, UN 2811, PG III" with other PG I and PG II packaged waste materials in the same siftproof closed vehicle.

According to your letter, FMC Corporation filed an application for exemption on August 16, 2001, to allow non-specification packaging to be used for baled Division 6.1, PG III hazardous waste and co-loaded on the same vehicle with other PG I and PG II packaged hazardous waste materials. You wish to confirm that co-loading of other PG I and PG II packaged waste with PG III waste materials in the same siftproof closed vehicles is permitted.

Section 173.240 authorizes the use of siftproof closed vehicles as bulk packagings for certain low hazard solid materials, such as PG III waste materials. Provided, the PG I and PG II waste materials are properly packaged and otherwise comply with the HMR, they may be co-loaded with PG III waste materials in the same siftproof closed transport vehicle. In addition, if the PG III waste materials are co-loaded with other PG I and PG II packaged waste materials, they must also meet compatibility requirements in § 173.21.

I hope this answers your inquiry.

Sincerely,

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



010302

173.240



Boothe
§173.240
Exemption
01-0302

November 30, 2001

Research and Special Programs Administration
Office of Hazardous Materials Standards (DHM-10)
U.S. Department of Transportation
400 Seventh Street, SW
Washington, DC 20590-0001

Dear Sirs:

FMC Corporation, Agricultural Chemical Group has contracted with Dinda and Associates, Inc. to assist with their regulatory compliance programs. On behalf of FMC Corporation, we are requesting interpretation of the application of the provisions of §173.240 as described below.

FMC Corporation, Agricultural Products Group, filed an application for exemption on August 16, 2001, to allow non-specification packaging to be used for baled hazardous waste. The objective was to have the materials used to enclose and unitize the bale of waste bags identified, by exemption, as a package. Reasoning was that this exemption package could then be co loaded with other waste packaged materials into a truck van. These other waste materials could include materials of packing groups II and I. The exemption application is attached for your ready reference less the photographs that originally accompanied the application.

On November 7, 2001, FMC received, by fax, a Letter of Interpretation from Mr. Don Burger. That letter dated January 30, 1998, from Mr. Delmer F. Billings to Mr. Jerry D. Davis, Manager, Corporate Transportation Programs, Laidlaw Environmental Services, Inc., provided for the situation as described by FMC as long as all materials loaded were classified as Class 9 (or PG III).

We wish to confirm, on behalf of FMC Corporation, Agricultural Products Group, that co loading of PG II and/or I packaged waste in the same transport unit (sift-proof closed vehicle in the case of PG III materials as authorized by §173.240) is authorized by these regulations as presently written and an exemption such as the one sought by FMC Corporation is not needed.

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VISIT OUR WEBSITE @ <http://www.DindaInc.com>

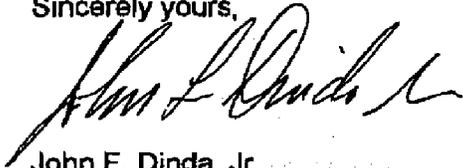
I use the word "confirm" in the understanding that I have captured the essence of my conversation with Mr. Don Burger (on the 19 of November – I believe). At that time I had asked him if the inclusion of packaged waste in packing groups II and/or I were allowed in the same transport unit (sift-proof closed vehicle in the case of PG III materials as authorized by §173.240 or truck van). His response, after checking (I believe with Mr. Edward Mazzullo) was that as long as the PG II and/or I materials were properly packaged, co loading was in conformance with current regulatory interpretation.

Withdrawal of FMC's exemption application is pending your response.

I am submitting this request by fax (five pages) and am following up by US Mail.

Please address any questions as well as your response to my attention at the address and telephone numbers indicated on this correspondence at the bottom of each page.

Sincerely yours,



John F. Dinda, Jr.
Regulatory Compliance Associate

Attached: FMC Exemption Application dated August 16, 2001.

Dinda and Associates, Inc.
525 Shady Retreat Road, Doylestown, PA 18901
215-230-9236 tel 215-230-7239 fax
VISIT OUR WEBSITE @ <http://www.DindaInc.com>
E-mail: JohnDinda@DindaInc.com



FMC CORPORATION

Agricultural Products Group

100 St. Louis Avenue
Opelousas, Louisiana 70570
Phone (318) 942-5782
Fax (318) 942-5976

August 16, 2001

Certified Mail 7001 0360 0002 9507 0587

Associate Administrator for Hazardous Materials Safety
Research and Special Programs Administration
U.S. Department of Transportation
400 7th Street, SW
Washington, DC 20590-0001
Attention: Exemptions, DHM-31

Dear Sirs:

FMC Corporation, Agricultural Products Group, 100 St. Louis Ave., Opelousas, LA 70570, hereby requests an exemption as identified below. Denise Hubbard, Plant Manager, FMC Corporation, Agricultural Products Group, 100 St. Louis Ave., Opelousas, LA 70570, (337) 942-5976, is the contact for all matters relating to this exemption application.

FMC requests an exemption for the use of non-specification packaging for hazardous waste. This hazardous waste consists of empty multiwall paper bags, empty woven polypropylene FIBCs and used fiberboard that last contained dry formulations of carbofuran and carbosulfan. These bags have been shaken but are not considered "clean" by EPA.

By EPA designation, this material is hazardous waste. By DOT definition, these bags would not be considered hazardous materials except for the fact that they are designated hazardous waste. The material that was in the bags or in contact with the fiberboard was a dry granule. Such granules display excellent flow characteristics. When the bags are emptied they are virtually product free.

For transport, these emptied bags may be placed in bulk non-specification packaging – specifically sift-proof closed vehicles or closed bulk bins.

A waste generator such as the FMC plant at Opelousas, LA finds itself in a predicament. To meet the requirements of the regulations, it is necessary to either more than double transportation costs or to create additional waste. Neither of these options is desirable.

In a 90-day accumulation period, volume of waste bags generated is not sufficient to effectively utilize authorized bulk packaging provided for in the regulations. If a bulk unit, as described earlier, is used, packaged waste cannot be added. Addition of packaged materials defeats the definition of "bulk."

To accommodate the waste disposal site (incinerator), the bale was preferred. To add PG III packaging, it would be necessary to specially design bulk packaging to enclose the bale or to reduce the size of the bale. Reduced bale size results in more than 30% more packages and a lot more waste. Waste reduction is a continuing objective at this plant.

EPA requires hazardous waste to be enclosed in a manner that prevents exposure to the contents. Creating the bale, covering it with fiberboard and stretch wrap, attaching it to a pallet for handling, provides a compliant unit of hazardous waste that can be stored. Adding more packaging does not improve safety in transportation. Only additional waste is created.

Section 173.240(b) provides for the placement of certain low hazard solid materials into sift-proof closed vehicles. Section 173.240(c) provides for the use of sift-proof non-DOT specification portable tanks and closed bulk bins. These are the specific bulk packages referred to earlier.

In preparing this exemption application, FMC considered two practical approaches that would achieve the same objective. The first was to seek an exemption to allow the inclusion of packages to a bulk vehicle. This approach was discarded because the bale would have had to be unwrapped and placed without pallet, etc. into this bulk unit.

The second approach, the one being presented here, is to seek an exemption for the packaging presently contemplated by the plant and the disposal site. This would allow the enclosed bale to be transported in a manner similar to packaged hazardous waste but without the additional waste that would be created by the addition of UN Certified packaging.

Specifics of the application follow:

Proper shipping name, technical names, Class, ID Number and Packing Group will be:

Waste Toxic Solids, n.o.s. (carbofuran, carbosulfan), 6.1, UN2811, PGIII

(Carbofuran and carbosulfan waste is listed as P127 and P189.)

Transportation will be by motor vehicle by registered waste transporter.

Exemption from the provisions of Section 173.240 is requested. Specifically to authorize the use of non-specification bulk packaging as described herein for the transport of hazardous waste.

Description of exemption proposal:

- Empty multiwall paper bags, empty woven polypropylene bags and used fiberboard are baled and compacted at 1700 psi. Each bale is wrapped using 12-gauge metal wire. A minimum of 6 wires is used per bale. Average weight of a bale is 500 pounds. Average dimensions of each bale are 45" long, 30" high and 42 inches wide. Photo Attachment #1 shows the bale in the compactor. Eight (8) strands of wire secure the bale in its compressed state.

EPA requires that hazardous waste, while stored, must be enclosed so as to prevent access. The bale is placed on a fiberboard slip-sheet on the pallet, capped with a piece of fiberboard and then stretch wrapped to the pallet. Photo Attachment #2 shows the bale on the pallet with the slip-sheet between the pallet and bale. This method fully encloses the bale. Inadvertent exposure or contact is eliminated. Photo Attachment #3 shows the bale on the pallet partially enclosed with stretch wrap and covered with a piece of fiberboard. Photo Attachment #4 shows the bale as prepared for storage. The bale is fully enclosed and secured to the pallet with stretch wrap.

Bales are disposed of by incineration. This configuration was developed in conjunction with the disposal facility.

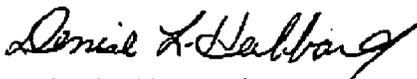
Product in the bags was originally classed Toxic, Division 6.1, PG III.

The packaging proposed will provide a greater level of safety than the packaging authorized at Section 173.240(b) and 173.240(c). This request is environmentally sound and minimizes waste of resources, natural and other.

The proposed duration of this exemption is at least two (2) years or until the regulations are amended to authorize this packaging method for hazardous wastes.

FMC requests expedited handling of this application.

Sincerely yours,



Denise L. Hubbard
Plant Manager

Enclosure