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APR 28 1986

MEMORANDUM

SUBJECT: Regulatory Interpretation Concerning the MCI/MCL  
Material Generated by FMC at its Middleport Facility

FROM: Matthew A. Straus, Chief  
Waste Identification Branch (WH-562B)

TO: Richard M. Walka, Chief  
Solid Waste Branch (2AWM-SW)

This is in response to your memorandum dated March 18, 1986, concerning the regulatory status (under the Federal hazardous waste rules) of a mixture of methyl isocyanate (MCI) and methylene chloride (MCL) that is to be shipped to another facility for recycling. Based on the information provided in the attachments to your memo<sup>1/</sup> and as I have discussed previously with Mr. Paul Ingrisano, of your staff, this material would not be subject to regulation under Subtitle C or RCRA. In particular, as described in the letters from Mr. Kennedy, the MCI/MCL is a mixture of unused commercial chemical products that FMC intends (or at least would like) to ship to its Institute, West Virginia facility for recycling into the carbofuran manufacturing process. In order to determine whether this mixture is a hazardous waste, one must first determine whether the material is a solid waste. Pursuant to 40 CFR 261.20(c), when a commercial chemical product (or a mixture of commercial chemical products) is reclaimed or used for its originally intended purpose, it is not a solid waste and, therefore, cannot be a hazardous waste. This material can thus be shipped to its carbofuran manufacturing facility in Institute, West Virginia without a manifest; in addition, the plant in West Virginia does not need a storage permit. This material would be subject, however, to all state regulations.

1/ See letters dated March 5 and 10 1986, from Rick W. Kennedy of Hodgson, Russ, Andrews, and Goodyear.

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Please feel free to give me a call if you have any additional questions, my telephone number is 8-475-8551.