



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

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

JUL 7 2003

Mr. Scott Kobryn
President
Bioconvergence, Inc.
2801 Long Road
Grand Island, New York 14072

Ref. No. 03-0128

Dear Mr. Kobryn:

This responds to your May 13, 2003 letter requesting clarification the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to your magnesium alloy turnings, which are shipped to your plant as "Magnesium alloys, UN 1869, 4.1, PG III" (with more than 50 percent magnesium in pellets, turnings or ribbons). Specifically, you ask if the magnesium alloy solids produced in your recycling process are regulated under the HMR.

According to your letter, after receiving the magnesium alloy turnings, you use a washing and drying process that removes oil and contaminants from the turnings, producing a clean, dry turning. You create magnesium alloy solid shapes from the magnesium alloy turnings in your recycling process using high-pressure briquetting equipment. These clean and dry alloy turnings are compressed into blocks at high pressure to create magnesium alloy solid shapes that are approximately 92% of solid ingot density. The magnesium alloy solids are then shipped to your customers for use as a replacement for magnesium ingot.

You state that the magnesium alloy solids produced by your company no longer meet the defining criteria in Part 173 of the HMR for "Magnesium alloys, UN 1869, 4.1, PG III". Therefore, you want to ship these magnesium alloy solids as non-hazardous, Recovered Magnesium Alloy Solids. Under § 173.22, the shipper is responsible for assigning the appropriate hazard class for the hazardous material according to the HMR. This Office does not normally perform that function. Based on the information provided in your letter, it is the opinion of this Office that if your recycled magnesium alloy



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173.22

solids in the recycled form no longer meet the defining criteria for Division 4.1 materials or any other hazard class defined in Part 173 of the HMR, and, they are not a hazardous waste, hazardous substance, or marine pollutant, they are not subject to the HMR.

I hope this answers your inquiry.

Sincerely,



Susan Gorsky
Senior Transportation Regulations Specialistt
Office of Hazardous Materials Standards

Bioconvergence, Inc.

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May 13, 2003

Attention: Edward T. Mazzullo
Director, Office of Hazardous Materials Standards
US / RSPA (DHM-10)
400 7th St. SW.
Washington, DC
20590-0001

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172-101(c)
Classification
03-0128

Dear Mr. Mazzullo;

I am contacting you with regard to clarification and to request DOT exemption for the metals solids produced by our company, Bioconvergence, Inc. (BCI). I have recently spoken with Phil Olsen of your office regarding this matter.

BCI is in the magnesium metal recycling business, specifically magnesium alloy turnings which are shipped to our plant as UN1869, 4.1, Packing Group 3. These turnings are generated by companies who machine magnesium alloy castings, such as automotive transfer cases which are first die-cast and then machined to final net shape. After BCI receives the turnings, we utilize a washing and drying process that removes oil and contaminants from the turnings and produces a clean and dry turning. We have recently installed high-pressure briquetting equipment that now creates magnesium alloy solid shapes from these turnings. Essentially, the clean and dry alloy turnings are compressed into blocks at high pressure to create magnesium alloy solid shapes that are approximately 92% of solid ingot density.

The magnesium alloy solids are then shipped to BCI's customers for use as a replacement for magnesium ingot. Our customers use these magnesium alloy solids as an alloying addition in the manufacture of aluminum.

Because the magnesium alloy solids that BCI produces and ships no longer fit within the definition of UN1869, we are requesting a DOT exemption to enable our company to ship these solids as non-hazardous, Recovered Magnesium Alloy Solids.

We appreciate your consideration of our request. Thank you.

Sincerely,



Scott Kobryn
President