UC [illegible]

PLAINTIFF'S EXHIBIT

UC-3329

INTERNAL CORRESPONDENCE

JUL 13 1979

GK

UNION CARBIDE CORPORATION

270 PARK AVENUE, NEW YORK, NEW YORK 1001.

To (Name)	Mr. T. R. Alexander	Date	July 10, 1979
Division	Mr. S. Hoffman		
Location	Mr. J. L. Myers	Originating Dept.	Corporate Distribution
Floor Number	Mr. R. W. Rebholz		
	Mr. R. J. Kronkhyte	Floor Number	6th Floor
Copy to	Mr. W. B. DeAtley	Answering letter date	
	Dr. H. B. Rhodes	Subject	DOT Docket No. HM-160; Transportation of Asbestos
		File	R.1.2.3 (HM-160)

At our meeting on June 14 concerning the above subject, I volunteered to acquire a copy of DOT's "regulatory evaluation" for Docket HM-160. Enclosed please find a copy of an evaluation addressing only the petitions for reconsideration and not the original Notice of Proposal Rulemaking (NPR). I could not locate an evaluation prepared for the NPR.

While obtaining the evaluation, I took the opportunity to review DOT's file on HM-160. Thinking that you might be interested I noted those parties providing DOT with comments on both the NPR and the Final Rule.

Enclosed are two listings. The first identifies those parties responding to the NPR. The second listing identifies those parties providing DOT with comments on the Final Rule and includes a brief summary on their comments.

W. G. Kahler II/mdm

W. G. Kahler II

WGK:jnr

Enclosures

UCC 009227

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DOT Docket No. HM-160

Parties Responding to "Notice of Proposed Rulemaking"

1. Airline Pilots Association
2. Calaveras Asbestos Ltd.
3. Fabricated Metals, Inc.
4. West Gulf Maritime Association
5. General Supply Administration
6. Sea-Land Service, Inc. (2 responses)
7. Special Materials Inc.
8. Hedman Mines Ltd.
9. Olin Corporation
10. R. T. Vanderbilt Company, Inc.
11. National Maritime Safety Association
12. Vermont Asbestos
13. The Chlorine Institute, Inc.
14. Asbestos Information Association
15. Johns-Manville Sales Corporation
16. American Trucking Associaiton, Inc.
17. Reed, Smith, Shaw and McClay
18. PPG Industries, Inc.
19. Dow Chemical USA (2 responses)
20. National Tank Truck Carriers
21. Pennsylvania Department of Transportation
22. Byers, Casgrain, McNally, Dingle, Benn and Lefebore
23. Air Traffic Conference of America
24. MICA Pellets, Inc. (2 responses)
25. Solar Turbines International

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DOT Docket No. HM-160

Parties Responding to "Final Rule"

1. Johns-Manville (12/21/78) - requested 60 days extension for filing petition for reconsideration.

2. Byers, Casgrain, McNally, Dingle, Benn and Lefebore (12/21/78) - represented Quebec Asbestos Mining Association; requested 60 days extension of effective date in order to allow for submission of comments.

3. Grief Brothers Corporation (1/4/79) - requested information regarding construction of sift-proof bags and any other material that might benefit Grief Brothers.

4. Cassiar Asbestos Corporation Ltd. (1/15/79) - requested 90 days extension of effective date in order to complete current program of implementing a shrink-wrapping unit at their facility; requested to know if unitizing on cardboard sheets would be accepted as palletized; requested to know if 20' I.S.O. metal containers would be considered rigid, airtight packaging; requested clarification if regulations will apply to asbestos being shipped in transit through the US to Mexico either via rail or truck and through US ports to overseas destinations in 20' containers.

5. Johns-Manville Corporation (2/1/79) - UC has copy of Johns Manville petition for reconsideration.

6. Union Carbide

7. Byers, Casgrain, McNally, Dingle, Benn and Lefebore (1/30/79) - petition for reconsideration on behalf of Quebec Asbestos Mining Association; requested effective date revision to 1/1/80; supports points in brief concerning reconsideration submitted by Canadian Johns Manville Company Ltd. (NOTE: did not find petition for reconsideration by Canadian John Manville Company Ltd.)

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DOT Docket No. HM-160

Parties Responding to "Final Rule" (continued)

8. Johns-Manville Sales Corporation (4/19/79)	- requested 30 days extension of time to file petition for reconsideration of revised Final Rule; expressed concern about deletion of phrase "transported by other than a private carrier by highway" in revised Final Rule.

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REGULATORY EVALUATION
HM-160

Transportation of Asbestos

Problem.

The Materials Transportation Bureau (MTB) has received several petitions for reconsideration of the final rule under Docket HM-160 in accordance with the provisions of 49 CFR 102.35. These petitions requested several changes in the Final Rule among which are: reinstate the provision allowing the use of freight containers, etc. which are loaded by the consignor and unloaded by the consignee; allow unitizing on pallets by glueing bags together rather than by methods such as shrink wrapping; except shipment of quantities of under 2,000 pounds from palletizing and unitizing; and extend the effective date of the final rule. These petitions were primarily based on the fact that the final rule as published in the Federal Register (43 FR 56664) included the requirement to palletize and unitize loads of bags and other non-rigid packagings which was not addressed by the proposed rulemaking. The MTB must determine the merits of these petitions and determine a course of action to be taken in order to provide for the safety and the protection of health for the general public, but which also offer fair and equitable regulations to the asbestos industry.

Major Alternatives

The following major objectives were considered:

(1) Do nothing.

(2) Reintroduce the original option of allowing bags and other non-rigid packagings to be transported in closed freight containers, motor vehicles, or rail cars that are loaded by the consignor and unloaded by the consignee.

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(3) Allow the use of slings which are shrink wrapped or stretch wrapped but which do not include the use of pallets during transportation by vessel.

(4) Extend the effective date of the final rule without other significant changes.

Economic Consequences

This evaluation is not based on qualified data or absolute costs of compliance with alternatives considered. This evaluation examines only relative impacts of the various alternatives.

(1) Do nothing: A decision by the MTB to deny these petitions for reconsideration and therefore, not amend the final rule would result in the asbestos industry being required to use either rigid, airtight containers, which do not include such things as freight containers, or to palletize and unitize bags and other non-rigid packagings. According to one petitioner, this approach would cause his company to shrink wrap or stretch wrap an additional 290,000 tons of asbestos for shipment into the United States. This would be an increase of 300% over their previously anticipated requirements. This petitioner also asserts that compliance with the present requirements of the final rule would be likely to increase costs to the paper industry users of asbestos fiber by approximately $2.5-3.0 million per year. These petitions also indicated that the asbestos industry, at the present time, has neither the equipment, facilities, nor capabilities necessary to comply with the final rule by the published effective date.

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(2) Reinstate the original option of allowing bags and other non-rigid packagings to be transported in closed freight containers, motor vehicles, or rail cars that are loaded by the consignor and unloaded by the consignee. By reinstating the above identified option, the MTB would be allowing the use of exclusive use vehicles as previously presented in the proposed rulemaking as a viable shipping option, which is more restrictive in some areas than the final rule. This would also allow a commonly used method of shipment, and thus the compliance cost to industry would be minimized to marking, shipping paper documentation and reporting requirements. The results of not including this option would result in the same compliance costs as identified in option (1).

(3)Allow the use of slings which are shrink wrapped or stretch wrapped, but which do not include the use of pallets during transportation by vessel. A petitioner stated that the use of pallets during transportation by vessel would be likely to increase the incidents of packaging failure due to the storage conditions during transportation and the interaction of the rigid edges of the pallets on the bags. The MTB has no information disputing this claim since such things as incident reports on transportation related releases of asbestos are not available. The MTB could either allow the use of such slings and subsequently review incident reports to determine the safety of such devices, or could require the obtaining of an exemption which could also be

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monitored for incidents and safety. Either of the options would allow the continued use of such devices and thus minimize the compliance costs to industry.

(4) Extend the effective date of the final rule. This approach would not alter the requirements of the final rule, or amendment to the final rule, but would extend for a period of time the mandatory compliance date. By extending the date, industry would be allowed time to acquire equipment and alter facilities to accomodate such equipment, to evaluate the implications of the final rule, and thus not be forced to either curtail asbestos shipments to the United States, which would cause great economic losses, or to make shipments in non-compliance with the regulations.

Assessment

The primary objective of the final rule is to establish regulations which represent minimum safety requirements and reduce the risks to the public health associated with the generation of airborne concentrations of asbestos that may result from the packaging and handling of asbestos fiber shipments in commercial transportation. The best interests of the public, industry, and the Department of Transportation can be served by revising the final rule as published in the Federal Register (43 FR 56664) and including methods of shipment presently in use, but which would still provide for the obtaining of the basic objective of the final rule. Therefore, objectives (2) (3) and (4) are reflected in this revision of Dockket HM-160.

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