PLAINTIFF'S EXHIBIT

UC-3333

CC-19-2

UNION CARBIDE

INTERNAL CORRESPONDENCE

METALS DIVISION

P. O. BOX 579 · 4625 ROYAL AVE., NIAGARA FALLS, NEW YORK 143

AUG 6, 1979

To (Name) Messrs.
Division G. L. Dickson
Location E. J. Kleber
T. P. Norris
J. E. Walsh

Copy to Messrs.
G. R. Adams
R. E. Byrne, Jr.
W. B. DeAtley
T. R. Alexander
W. G. Kahler
R. M. Mitchell
H. B. Rhodes
J. J. Sibley
[redacted]
File

Date July 26, 1979

Originating Dept. "Calidria" Asbestos

Answering letter date

Subject DOT Regulations

This will be an attempt to answer your written questions and to bring you up to date on the current status of the Subject. Copies of your letters sent to me after the sales meeting are enclosed for reference, as well as our latest petition to the DOT. We met with the DOT on 7/19/79 to clarify some points, as follows:

1. Bulk cars and trucks can be shipped under §173.1090(d)(1). The word "airtight" means leak tight, not that the cars must be capable of holding pressure. The plant will initiate an inspection procedure to confirm that gaskets, caps, etc. are in place on cars prior to shipment to ensure that there is no leakage during transit. Bulk customers should be advised to do the same prior to returning the cars to us. The customer does not have to clean the car or do any labelling. "ASBESTOS ORM-C" has been stencilled on all the bulk cars.

2. "Exclusive use" in (d)(2) means that the vehicle is used exclusively by one shipper directly to one receiver. For example, a distributor can load asbestos and other of his products into the same vehicle provided that no other shipper uses the vehicle and that it goes directly to the receiver. This is to protect transportation workers, who are not covered by OSHA.

3. The DOT promulgated the regulations to preclude coverage of transportation workers by OSHA. If they were under OSHA, the regulations requiring medical exams, recordkeeping, etc. would apply.

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4. They indicated no problems with extending the effective date to 10/1/79 for product already in warehouse inventories that does not meet the regulations, but this must be confirmed in a reply to our petition. Your distributors and warehouses should attempt to move all such product by 8/20/79.

5. They refused to consider exempting less than pallet quantities from the palletizing and unitizing requirements. Their reasoning is that loose bags placed in a vehicle with other products, equipment, drums or whatever, would be too susceptible to breakage and potential exposure for transportation and other workers to airborne fibers. They were receptive to allowing the use of cardboard boxes as an alternate to palletizing and unitizing, and we expect a favorable answer to our petition for this change. This will allow us to continue using current practice for shipping samples, both lab size and full bags. The "ASBESTOS ORM-C" marking must be on the outside of such boxes. The DOT will not put any specs on such boxes other than "strong" and "rigid." Mr. Sibley advises that the OSHA warning is not required on the outside.

6. All carriers are covered by the regulations. The original rules had exempted private carriers.

I have drafted new letters for customers, distributors and warehouses, and copies are enclosed for your information. Gordon has agreed to be responsible for "educating" our warehouses and determining how much material we have which does not meet the DOT requirements. If your distributors have any questions which you can't answer, Gordon or I will attempt to handle them. I would suggest that you visit your distributor's warehouses personally to determine how much product they must move by 8/20 (or 10/1 if our petition is allowed), and to make sure they understand the regulations.

Following are comments and answers to your specific questions:

1. All asbestos transported by any means is covered by the regulations. Samples carried in your cars must be in dust and sift proof packaging inside of cardboard boxes (if this is approved). If boxes are not approved we must develop rigid packaging or some other method to meet the regulations. Samples can be transported in car trunks provided they are properly packaged and marked.

2. We will not ask the customers or distributors to sign and return a copy of the letter sent to them.

3. Regarding vehicle cleanup, I was advised not to request the DOT to clarify "in a manner that will minimize occupational exposure" (§174.840). If you have such a question, refer the questioner to his own attorney and/or to the OSHA regulations.

4. The letter to customers includes a quotation from 173.1090(c) to explain the shipment of asbestos-containing products.

5. The "C" in "ORM-C" has no meaning, just an alphabetical assignment for Other Regulated Materials.

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6. If a distributor ships bags in a sealed fiber drum, the "ASBESTOS ORM-C" must be marked on the outside. The plant has purchased 15,000 labels and will send whatever quantities you request.

7. The consignee is responsible for vehicle cleanup. We would not plan to pay for any costs incurred. I would not suggest any "method" to ensure a clean vehicle. Visible material should be vacuumed or wet down and swept. Refer to OSHA regulations.

8. The handling of damaged shipments should be no different than before. The extent of damage would dictate how to handle it.

9. Damaged shrink-film should be repaired with tape and/or sheets of film.

10. I would interpret 173.1090(c) that asbestos mixed dry with other materials would be covered.

11. LTL asbestos orders can be shipped in any manner provided they meet 173.1090(d)(3), dust and sift proof bags, palletized and unitized.

12. A tarp-covered truck is not a "closed" truck.

13. The plant is double-wrapping all bags which go to warehouses and distributors, and they are palletizing and unitizing all such "dust and sift proof" bags.

I assume that you have already discussed the new regulations with your distributors, especially with regard to the impact of not being able to ship bags unless they are palletized and unitized, or, for example, in a sealed fiber drum. If not, this should be your first order of priority. Bulk customers should be advised regarding the condition of caps and gaskets or bulk cars, I see no reason for personal discussions with other customers - the letter should provide them with enough information.

John L. Myers

JLM:dal
Enclosures

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UNION CARBIDE CORPORATION
CORPORATE DISTRIBUTION
270 PARK AVENUE, NEW YORK, N.Y. 10017

July 23, 1979

Materials Transportation Bureau
US Department of Transportation
2100 Second Street, SW
Washington, DC 20590

SUBJECT: Docket No. HM-160
Transportation of Asbestos

Gentlemen:

On March 29, 1979, the Materials Transportation Bureau published in the Federal Register (44 F.R. 18673) a revision of Amendment No. 173-23 regarding the transportation of asbestos, as published on December 4, 1978, (43 F.R. 56664).

Union Carbide Corporation is engaged, among other things, in the production, sale and distribution of chrysotile asbestos and ships an aggregate of over 30,000 tons per year of such material for use in various applications. Although a substantial portion of Union Carbide's shipments of asbestos is made in bulk, an equally substantial portion requires packaging in bags.

As revised, §173.1090 (d) (2) and (3) contemplate the use of bags or other non-rigid packagings. In each case, however, the revised section appears to assume that shipments in bags can always be made in fairly large quantities. Thus, subparagraph (2) permits the use of bags in closed vehicles which are assigned for the "exclusive use" of the consignor. Obviously it would in most circumstances be exceedingly uneconomical for any consignor to operate, or contract for the exclusive use of, a vehicle to transport a shipment of only a few bags of asbestos.

Similarly, subparagraph (3) requires that bags be palletized and unitized. Ordinarily, in commercial sales of asbestos, shipment quantities are sufficient to economically and practically accommodate that requirement. In many cases, however, distributors must ship quantities of only a few bags to meet customer requirements or limitations. Additionally, in the case of sample shipments, only a single bag may be involved.

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Accordingly, it is respectfully requested that the effective date of the new regulations be further extended to October 1, 1979, but solely with respect to asbestos packaged and initially shipped prior to August 20, 1979. It must be recognized, however, that a prompt response to this request is imperative since, if no extension is to be granted, movement to California must commence shortly in order to be completed on or before August 20.

Your courtesy and cooperation in considering the matters discussed herein are greatly appreciated.

Respectfully submitted,

UNION CARBIDE CORPORATION

M. D. Michaud
Assistant Administrator
Hazardous Materials Transportation
Regulations

MDM:jnr

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UC 149-2

UNION CARBIDE INTERNAL CORRESPONDENCE

METALS DIVISION

P. O. BOX 579 · 4625 ROYAL AVE., NIAGARA FALLS, NEW YORK 1

To (Name) J. L. Myers
Division
Location UCC-Niagara Falls, NY

Date July 3, 1979

Originating Dept. "Calidria" Asbestos

Answering letter date

Copy to File

Subject DOT Regulations

As far as I can determine, the drafts of letters to our customers and distributors regarding the new DOT regulations cover the subject very well. No mention was made concerning the transportation of samples by our distributors, such as in automobiles, but possibly that is not germane to the present subject. My main concern is that we should begin shipping material to our warehouses and distributors as soon as possible with the new packaging or else we will be faced with the possible return of a large amount of material to King City for repackaging. Although it will only effect the Finderne warehouse and two distributors (Allied Resin Corp. and Technical Products, Inc.), I think that we may get some questions regarding our request that they sign and return a copy of the letter sent to them. One question could easily be - "What happens if we don't sign the letter?"

GLDickson

G. L. Dickson

GLD:dal

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UC 149-2

UNION CARBIDE INTERNAL CORRESPONDENCE

METALS DIVISION

P. O. BOX 579 - 4625 ROYAL AVE., NIAGARA FALLS, NEW YORK 143(

To (Name) J. L. Myers
Division
Location UCC-Niagara Falls, NY

Date July 3, 1979

Originating Dept. "Calidria" Asbestos

Answering letter date

Copy to File

Subject Letter Regarding DOT Regulations

At your request, listed below are some questions and comments on your proposed letters to customers, distributors and warehouses.

1. Both letters - in the quote from DOT 174.840, the phrase "in a manner that will minimize occupational exposure..." is used. Is there a way to clarify that better?

2. Both letters - maybe a comment or quote from 173.1090-C is in order to minimize customer's fear of shipping finished product.

3. Distributor/Warehouse letter - what does the distributor/warehouseman's signature really mean? What if he doesn't sign?

4. Both letters - what does the C in ORM-C signify?

If you have any questions or comments, please let me know.

E. J. Kleber

EJK:dal

UCC 009250

UC 149-27780

UNION CARBIDE

INTERNAL CORRESPONDENCE

UNION CARBIDE CORPORATION

17 EXECUTIVE PARK DRIVE, ATLANTA, GEORGIA 30329

To (Name) J. L. Myers
Division
Location

Date June 22, 1979

Originating Dept.

Answering letter date

Subject DOT Regulations

Copy to

Dear John,

The following questions concerning the DOT regulations include some asked at our meeting and others I have thought about and discussed with our distributor and local warehouse.

1. Will we and/or our distributors be able to continue to ship our standard samples after August 20?
2. Can we and/or our distributors continue to transport the samples in the trunk of our company or rented cars?
3. If our distributors decide to sell less than pallet quantities in sealed fiber drums, will an asbestos warning label be required on the drums?
4. Do cardboard shipping cartons meet the DOT definition of a suitable container for less than pallet shipments?
5. What would be the specifications of an approved carton?
6. Does the distributor and/or customer have to insure clean car/truck return?
7. If the distributor's warehouse bills them for the cleanup or our customers bill us, what will our stance be on reimbursing them?
8. What method do we recommend to insure the car or truck is cleaned, in compliance with the regulation?
9. Is a customer receiving an LTL shipment responsible for insuring any cleanup?
10. What happens to damaged enroute or damaged on delivery shipments? Should material be refused or accepted and disposed of?
11. What can a distributor do, who does not have access to shrink filming on a 2-3 bag pallet damaged in warehouse movement?
12. If no extension can be obtained to the August 20th effective date, what should be done with on hand or enroute product not in compliance at our warehouses, distributors and customers?
13. Is any asbestos containing dry mix product sold by our customers covered by the regulation?
14. Can our warehouse or distributor ship one or more LTL orders going to different customers in the same truck which is either loaded or will be with other non asbestos products?

RECEIVED
JUN 25 1979
UCC-CALIDRIA
NIAGARA FALLS, N.Y.

UCC 009251

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