UC 149

PLAINTIFF'S EXHIBIT

UC-3528

UNION CARBIDE

INTERNAL CORRESPONDENCE

METALS DIVISION •

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To (Name) Mr. J. L. Myers
Division UCC - Metals
Location Niagara Falls, New York

Date January 26, 1979
Originating Dept. "Calidria" Asbestos
Answering letter date
Subject Changes in DOT Docket HM-160

Copy to Messrs.
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A preliminary draft of the suggested wording you requested is attached. Attention is directed to the following points:

1. A six months' delay in effective date is requested for products now in commerce to allow for the clearing of inventories. In connection with this, it is very important to note that products in warehouses which are already in compliance with the packaging requirements can very simply be fixed after April 30 by adding an Asbestos-ORM-C label. Packages which are not in compliance must be shipped back to King City for repackaging before April 30. The addition of an ORM-C label is a certification by the shipper that the package meets regulatory requirements and we cannot do this indescriminately.

2. A definition of "dust and siftproof" is added. This seems like a reasonable suggestion. Any move to a numerical criterion would involve complex and expensive monitoring. The appearance of visible dust should be sufficient evidence of improper packaging.

3. Gluing in an interlocking pattern has been added as our acceptable method of unitizing. If the bags are individually dust and siftproof it can be argued that this is an effective way to prevent shifting and damage.

4. Under paragraph (d), two basic shipping conditions for dust and siftproof bags are suggested:

   a. General shipments (except by private carriers) must be unitized and palletized. These do not have to be in closed containers, trucks, or rail cars.

   b. Shipments in closed freight containers, motor vehicles, and rail cars subject to the limitations that they must be loaded by the consignor and unloaded by the consignee. These shipments can be made up of individual dust and siftproof bags.

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5. Under Part (e)(2)(i) an exemption is provided for quantities of less than 2000 pounds. The word "quantity" rather than shipment was selected so as not to exclude a total shipment of a full pallet plus 10 loose bags.

H. B. Rhodes

Harrison B. Rhodes

/rmm
Attachment

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ATTACHMENT 1

SUGGESTED CHANGES TO DOCKET NO. HM-160
TRANSPORTATION OF ASBESTOS

In the preamble make the following change in the effective date:

EFFECTIVE DATE: These regulations are effective for products at the point of manufacture on April 30, 1979 and for products now in commerce on October 30, 1979.

In Part 173 make the changes shown below. The remaining parts are unchanged:

PART 173 - SHIPPERS - GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

2. Section 173.1090 is added preceding Subpart N to read as follows:

§173.1090 Asbestos.

(a) Asbestos includes any of the following hydrated mineral silicates: chrysotile, crocidolite, amosite, anthophyllite asbestos, tremolite asbestos, actinolite asbestos, and every product containing any of these minerals.

(b) Commercial asbestos is any material or product containing asbestos that has commercial value because of its asbestos content.

(c) Asbestos which is immersed or fixed in a natural or artificial binder material (such as cement, plastic, asphalt, resins or mineral ore) and manufactured products containing asbestos or any materials or products whose commercial value is not dependent on their asbestos content, are not subject to the requirements of this subchapter.

(d) "Dust and siftproof" as used in this regulation means no visible leakage of asbestos out of the packaging under conditions normally incident to transportation.

(e) ~~(d)~~ Commercial asbestos must be offered for transportation and transported in-

(1) Rigid, airtight packagings such as metal or fiber drums, portable tanks, freight containers, covered hopper cars, or

(2) Bags and other non-rigid packagings that are dust and siftproof. When transported by other than a private carrier by highway, bags and other non-rigid packagings containing asbestos must be:

(i) Palletized and unitized by methods such as shrink-wrapping in plastic film, gluing in an interlocking pattern, or wrapping in fiberboard secured by strapping, or;

(ii) In closed freight containers, motor vehicles, or rail cars, that are loaded by the consignor and unloaded by the consignee.

(iii) Quantities of less than 2000 pounds are exempted from the palletizing and unitizing requirements of Part (e)(2)(i).

UCC 009198

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