PLAINTIFF'S EXHIBIT

UC-3894

September 10, 1980

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#194A

UNION CARBIDE CORPORATION
FEDERAL GOVERNMENT RELATIONS DEPARTMENT
ISSUE SUMMARY

Draft Date
September 17, 1980

REGULATION OF ASBESTOS

Description and Background

Asbestos is a known human carcinogen. Asbestos was the first material regulated by OSHA and has been subject to a standard since December, 1971. The Environmental Protection Agency (EPA) and the Consumer Product Safety Commission (CPSC) have worked out an inter-agency agreement which divides up the regulatory responsibility for the massive asbestos efforts now underway. The Environmental Protection Agency issued an advanced notice of proposed rulemaking (ANPR) in October of 1979 regarding the commercial and industrial use of asbestos fibers. Their request was for voluntary submission of a tremendous amount of information, and listed the regulatory options they have under consideration. The EPA will regulate asbestos under the Toxic Substances Control Act or TSCA, the Resource Conservation and Recovery Act (RCRA), and the Clean Air Act.

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Financial Impact

(To be determined.)

UCC Position

(To be added later.)

The Other Side

In analyzing the exposure to asbestos, the EPA has used an innovative "cradle-to-grave" approach similar to that used to ban polychlorinated biphenyls. As described in the October '79 ANPR the approach is to measure the risk at each step in the life cycle of the substances (mining, milling, transportation, product manufacture, product use, and final disposal) and add them together. If the cumulative risk is judged to be unreasonable, the EPA takes the position that all except absolutely essential uses should be banned. They have already made a tentative conculsion that an unreasonable risk situation exists for asbestos, and this is reflected in the proposed regulatory alternatives.

Allies and Opponents

Our allies on this issue include the National Association of Manufacturers, the American Mining Congress, and the Asbestos Information Association/North America, all of whom have been involved with the regulatory aspects of asbestos. The Asbestos Information Association of North America has retained the counsel of Kirkland and Ellis for comments on various regulations.

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UCC Actions Taken

Union Carbide has been active in participating in the meetings with the National Association of Manufacturers and the Asbestos Information Association. Union Carbide has been supportive of comments submitted by the Asbestos Information Association in response to an advance notice for proposed rulemaking issued by EPA in October of 1979.

Key UCC Personnel Involved

Harrison B. Rhodes, Metals, Niagara Falls

Situaion Update and Outlook

The CPSC wishes to issue a general order to require manufacturers, including importers and private labellers of specified categories of consumer products containing asbestos, to furnish the Commission with information on the identity of these products manufactured since 1977. Information will also be sought on the identity of possible substitutes for the asbestos in the products identified. The two major industries affected by the products listed are the appliance industry and the asbestos paper industry. While other segments of the industries producing asbestos consumer products may be covered in later orders it is not expected that the respondents to this particular order will be required to respond to any additional Commission orders. EPA is planning to prepare a section 8(a) rule in such a fashion to require information other than that mentioned in the Consumer Product Safety Commission. The

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EPA listed asbestos as a commercial product, when discarded, is considered a hazardous waste in its May 19, 1980 RCRA regulations. The regulatory timetables that are now appearing give belief that there are several more years of regulatory investigations ahead with the result being substantiative legal challenges. It is likely that the courts may be the only possible source of relief. Bans or mandtory substitutions are not expected as a result of the large scale regulatory actions in progress. Final regulations reducing the asbestos exposure may take one to three years to be promulgated with several more years after that open for industry to come into compliance.

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