

ORIGINAL

1985-26

BEFORE THE
SURFACE TRANSPORTATION BOARD

SECTION 5a APPLICATION NO. 61 (Sub-No. 6)
NATIONAL CLASSIFICATION COMMITTEE -- AGREEMENT



REPLY COMMENTS OF
NATIONAL SMALL SHIPMENTS TRAFFIC CONFERENCE, INC.
AND THE HEALTH AND PERSONAL CARE DISTRIBUTION
CONFERENCE, INC.

ENTERED
Office of the Secretary

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National Small Shipments
Traffic Conference, Inc.

The Health and Personal Care
Distribution Conference, Inc.

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Dated: May 11, 2000

**REPLY COMMENTS OF
NATIONAL SMALL SHIPMENTS TRAFFIC CONFERENCE, INC.
AND THE HEALTH AND PERSONAL CARE DISTRIBUTION
CONFERENCE, INC.**

The National Small Shipments Traffic Conference, Inc. ("NASSTRAC") and The Health and Personal Care Distribution Conference, Inc. ("H&PCDC") (collectively, the "Shipper Conferences") hereby reply to the Opening Comments filed in this proceeding by the National Classification Committee ("NCC"), the American Trucking Associations, Inc. ("ATA"), and other parties.

The Shipper Conferences have already replied (on May 1, 2000) to the separate Petition of the NCC seeking deletion of certain language on bills of lading from the Board's February 11, 2000 decision on reconsideration in the lead docket in this proceeding.^{1/} In these Reply Comments, the ATA's "Opening Comments and Motion," which were filed in the Sub-No. 6 subdocket, will be addressed first, because of ATA's threshold arguments that the Board has misinterpreted 49 U.S.C. § 13703.

**I. ATA'S REQUEST FOR TERMINATION OF THE BOARD'S NCC
REFORM PROCEEDING SHOULD BE DENIED**

In its Comments and Motion, ATA argues that the STB should adopt a presumption in favor of continued antitrust immunity for the NCC, based on the ATA's interpretation of 49 U.S.C. § 13703.

^{1/} Having filed its Petition, the NCC evidently elected to ignore the issue of collective action on bills of lading and related provisions in its Opening Comments. The Shipper Conferences reiterate in this subdocket their call for Board action to prevent hidden liability limitations through collective action by carriers on bills of lading.

According to the ATA, changes in NCC procedures cannot be ordered without an Act of Congress.

The Shipper Conferences continue to disagree with these arguments, but do not believe they require extended discussion.^{2/} The statute itself contains a clear predicate for the termination of antitrust immunity for the NCC. As provided in 49 U.S.C. § 13703(a)(2), the Board may approve the NCC agreement, and continued antitrust immunity, "only if it finds that such agreement is in the public interest."

Unlike ATA, the Conferences do not believe the Board has ascribed to itself the right to withhold its approval of an agreement that is in the public interest. However, even if an agreement meets the public interest standard and therefore must be approved, the Board retains the authority under Section 13703(a)(3) to "require compliance with reasonable conditions."

In its Decision served December 18, 1998 in this proceeding, the Board said it could not find that the NCC agreement, as presently constituted, is in the public interest. Decision at 6. In its subsequent Decision on Reconsideration served February 11, 2000, the Board reiterated its concerns about the possibility of bias in NCC decision-making, and stated (Decision at 3):

Given the substantial rate implications associated with NCC's activities, however, we

^{2/} See the Conferences' Reply in Opposition to Petitions for Reconsideration filed February 16, 1999. That filing, and the Conferences' other filings in this proceeding prior to establishment of the Sub-No. 6 subdocket, are incorporated into the record hereof by reference.

do not believe that it would be in the public interest to continue to grant immunity from the antitrust laws without regard to the fairness of the procedures under which the organization operates.

ATA's vitriolic disagreement with this finding is hard to understand. It is well established that exemptions from the antitrust laws are disfavored, and that procedural safeguards are necessary. See, e.g., Silver v. New York Stock Exchange, 373 U.S. 341 (1963). That this bedrock principle affects the Board's public interest analysis is hardly objectionable. The Board's reference to granting immunity is simply shorthand for the statutory requirement of a finding that the NCC's agreement is in the public interest before immunity will attach.

The national transportation policy, which is explicitly cross-referenced in Section 13703(a)(3), is not as narrow as ATA suggests. See Section 13101(a)(2) subsections (A) "encourage fair competition," (B) "require fair ... decisions," (C) "meet the needs of shippers, receivers ... and consumers," and (I) "improve and maintain a sound, safe and competitive privately owned motor carrier system." It should be obvious that changes in NCC procedures designed to give shippers a more effective voice in the classification process will further the national transportation policy.

Ultimately, what ATA is requesting is that the Board summarily terminate this proceeding and rubber-stamp the NCC's application for renewed antitrust immunity. If there were Congressional

support for that outcome, it would surely have been expressed in the Motor Carrier Safety Improvement Act of 1999.

That Act does specify that if the agreements currently under review are approved, it will be five years before the NCC and the rate bureaus must request another renewal (although the Board may, at any time, impose conditions under Section 13073(a)(3) or take remedial action under Section 13703(a)(5)(B)). However, nowhere in the Act is there any suggestion that the current agreements should be approved at all, let alone approved summarily. On the contrary, by providing in Section 227(c)(2) that the Act's provisions on five-year reviews shall not affect pending proceedings, Congress approved the Board's announced intention to go forward with these reform proceedings.^{3/}

II. THE NCC'S COMMENTS FAIL TO JUSTIFY INACTION

Unlike the ATA, the NCC does not argue that the Board lacks the legal authority to require changes in NCC procedures. In fact, the NCC states: "it should be perfectly clear that the NCC stands ready to adopt and implement reasonable and practical changes in its procedures designed to further facilitate shipper participation -- an objective which it has long sought to achieve for the benefit of all." Statement of NCC Executive Director Martin E. Foley at 5-6.

^{3/} Accordingly, the cases on Congressional inaction cited by ATA (Comments at 8, n. 13) are inapposite.

The Shipper Conferences welcome this approach, and have attempted to be constructive in their Comments. Although the Conferences have questioned the need for continued antitrust immunity, the main focus of their Opening Comments, and those of other shipper representatives, was on ways of improving NCC procedures.

There appears to be little dispute among the parties that if the NCC is to retain antitrust immunity, fairness and objectivity should characterize its operations. This means fair and objective procedures, fair and objective standards, and fair and objective results, as reflected in the National Motor Freight Classification ("NMFC"). To the extent that the Comments filed to date reflect disagreements among the parties, the disagreements involve whether the NCC's present operations meet the accepted criteria. In general, the NCC, carriers and consultants contend that present NCC practices do not require significant changes. Shippers and shipper organizations call for more extensive reforms.^{4/}

The areas of disagreement should not be exaggerated. There are issues routinely dealt with by the NCC, such as packaging standards, that are generally not controversial, or that have a beneficial impact, or at least no adverse impact, on shippers. Nor

^{4/} The Shipper Conferences have reviewed the 1997 and 1998 supporting statements from Congressman Rahall, former ICC members, state officials, and shippers that are collected in Volume II of the NCC Opening Comments. It should be recognized that what these letters seek is the preservation of NCC antitrust immunity. By and large, they do not address the issue of whether continued immunity should be conditioned on the implementation of reforms designed to give shippers a more effective voice in classification.

do the Shipper Conferences contend that whenever a shipper opposes a classification change proposed by the NCC, the shipper should prevail. Fairness and objectivity do not mean that the shipper always wins, just as they do not mean that carriers always win.

The fact remains, however, that on too many occasions, shipper complaints about procedures, standards and results have led to opposition, appeals and protests. It is clear from the Comments filed in this proceeding that these disputes result in large part from shippers' inability to obtain data about the sources of and rationale for classification increase proposals, from shippers' concerns about the fairness of the applicable standards, and from the fact that Staff presentations to, and decisions by the NCC are controlled by the trucking industry and trucking industry employees. For these reasons, the Shipper Conferences' disagree with the NCC's arguments in support of the status quo.

The NCC denies that there is any connection between classification and rates. See, e.g., Witness Foley's statement at 10: "As is well known, classification ratings and class rates are entirely separate and distinct." In fact, it is well known that class ratings and class rates are directly related. When the former go up, so do the latter, even if actual freight rates may go up less due to discounting. See National Classification Committee v. United States, 22 F.3d 1174, 1175 (D.C. Cir. 1994):

Although the NMFC itself does not establish trucking rates, it plays a significant role in the rate-setting process. Class rate tariffs incorporate the NMFC's classifications and establish rates on a classification by

classification basis for transporting goods between specific locations. Generally, the higher the classification rating, the higher the rate the shipper pays for transportation. Class rate tariffs may be published either by a carrier individually or by a carrier rate bureau.

Contracts may serve to delay the rate impact of increases in class ratings, but this effect is usually temporary, at best. Increases in class ratings almost invariably lead, sooner or later, to higher freight rates. If classification were truly irrelevant to ratemaking, shippers would rarely, if ever, participate in NCC proceedings, and even carriers would probably find other uses of their time more productive. Indeed, it is precisely this connection between classification and ratemaking that accounts for the desire of NCC (and the rate bureaus) to preserve their antitrust immunity.

III. THE NCC'S PROPOSALS AS TO NOTICE AND ACCESS TO DATA ARE INADEQUATE

In their Opening Comments, the Shipper Conferences illustrated their concerns about current classification practices by reference to two NCC proceedings, involving poisonous materials and rubber hose. At its May 1, 2000 Meeting, the full NCC voted to defer action on the proposal, previously approved by a Panel of the NCC, to reclassify to Class 200, 250 and 300 numerous poisonous materials that are currently rated at Class 55 to 100.

The NCC's decision to postpone action on the poisonous materials issue until November 2000 is helpful, and the Shipper

Conferences will honor their commitment to cooperate with the NCC Staff in developing additional information about the transportation characteristics of poisonous materials. However, neither the NCC's decision to stay its hand on poisonous materials, nor proposals for improvements in the NCC's Opening Comments, satisfy the Shipper Conferences' concerns.

The NCC's Comments offer some suggestions. At page 14 of his Statement, Mr. Foley lists seven initiatives already begun, which are aimed at improving NCC operations. However, only the third of these is new. This is NCC's decision to make available "all written reports and analyses ... prepared by the NCC Staff" to shippers and other interested parties. The Shipper Conferences commented on this development in their Opening Comments (at 20-21). It is a step in the right direction, but more is needed.

Shippers still are not told who requested NCC action (except in general terms such as "a carrier member"). Moreover, shippers cannot see the data on which the NCC Staff relied in preparing their "written reports and analyses." Without access to the underlying data, shippers cannot know how extensive it is, how authoritative it is, or how accurate it is. Shippers also have no way of assessing the reliability of the resulting analysis. This is not classification "in the sunshine."

The Shipper Conferences described in their Opening Comments the inaccuracy of the NCC Staff's research on rubber hoses, as an example of the problems caused by the NCC's current practices. The Staff found a maximum density of 13 pounds per cubic foot, but the

manufacturers showed densities ranging up to 50 pcf, and average densities of 15 pcf, exceeding the Staff's maximum density finding.

As the Shipper Conferences explained (Opening Comments at 17-18), the problem is that the Staff tends to rely on "Shipment Information Forms" supplied by carriers. And the carriers use these forms to complain about less dense shipments, but evidently do not file forms with the NCC when shipments with densities appropriate for (or exceeding) the applicable class rating are transported. The Staff may be reporting their data accurately, but there is an obvious bias in the data gathering system.

In its Opening Comments, the NCC offers four examples of classification "success stories," in the Beck and Ringer Statement at 10-15 (though it remains to be seen whether tobacco shippers will be satisfied with the outcome of their docket item). But the Shipper Conferences have never contended that all NCC classification actions are objectionable. The problem is that too many are, and the Conferences do not expect real improvements without reforms mandated by the STB.

The problem of inaccurate carrier data surfaced again, very recently, at a May 2, 2000 NCC Panel meeting. This time the subject was rubber belts, and the NCC Staff's data indicated that "v-type" belts (the kind found under the hoods of cars) had maximum density ranges of from 4 pcf to 12 pcf, and from 22 pcf to 43 pcf. In other words, the Staff's Research Project Report found no belts being transported between 12 pcf and 22 pcf, and suggested

classification changes accordingly. (Some belt ratings would have gone up and some down.)

The Rubber Manufacturers Association and member manufacturers, including Goodyear and Gates Rubber, testified at the May 2 NCC Panel meeting that most v-type rubber belts are in the 12 pcf to 22 pcf range, with an average density justifying the current class rating. Once again, the Staff's reliance on Shipment Information Forms from carriers, and the carriers' incentive to file those forms only for less dense shipments, led the NCC astray. The Panel directed the Staff to address the shipper data in its next report.

According to the NCC, belt shippers had nothing to worry about, because (to quote from pp. 7-8 of the pamphlet bound into the NCC's Opening Comments at Attachment A) the Staff "cannot make any decisions or recommendations with respect to the disposition of any classification proposal." See also the Statement of NCC Witness Welsh at 11: "The staff is prohibited from making any recommendation, suggestion or advocating any position that would affect the vote or determination of the NCC or a Classification Panel on any classification issue."

This contention, like the claim that classification has nothing to do with ratemaking, elevates form over substance. A copy of the NCC Staff's Research Projects Report on rubber belts is attached hereto as an Appendix. After concluding that the current class ratings on belts deviate from NCC guidelines, the Report attaches new provisions (the third page of the Appendix) reflecting changed class ratings, and states at the bottom of page 2: "In

keeping with NCC policy, the Attachment provides sample provisions for the Panel's consideration that would be in keeping with NCC policy and guidelines." To the Shipper Conferences, this looks very much like a suggestion or recommendation by the Staff.

This problem of carrier bias in reporting data to NCC, and the Staff's obvious ability to translate biased data into sample classification provisions that Panel members can order docketed as proposals, is exacerbated by the low threshold for classification action. As explained in the Shipper Conferences' Opening Comments (at 16-17), the same meritless proposal for increased class ratings on rubber hose was docketed by the NCC three times between 1990 and 1999. It appears that a few anonymous carriers with a few light loads (or even one carrier with one light load) can put an entire industry in jeopardy, and can do so over and over.

As NCC Witness Welsh explains (at 10) "Any individual shipper, broker, distributor, receiver, carrier, freight forwarder, traffic consultant, trade association, packaging organization or industry group may docket a proposal to amend the National Motor Freight Classification." However, his Attachment B shows 62% of proposals coming from carriers, and it is a certainty that almost all proposals for higher class ratings are carrier-originated.

The NCC argues in its Opening Comments that shippers have a responsibility to participate more fully in its classification

proceedings. See the Statement of NCC Staffers Beck and Ringer at 16-18.^{5/} But there are several problems with this recommendation.

In the first place, there are limits to the amount of time shippers can devote to gathering the information necessary to rebut NCC proposals and NCC Staff suggestions. It is burdensome enough for a Goodyear or a Gates logistics professional to have to divert his or her attention from day-to-day duties in order to gather information on commodity transportation characteristics for the NCC. Doing this three times in ten years is even more burdensome, and indicates that the classification system is designed to wear down shipper resistance through recurring reclassification proposals.

Shippers and shipper associations should not be expected to shoulder these analytical burdens or else face class rate increases, merely because a few carriers haul a few light shipments and see an opportunity for higher class ratings and higher rates. Even if it is assumed that every member of every NCC Panel is so honorable and unbiased as to give the benefit of any doubt to the

^{5/} Messrs. Beck and Ringer list a number of trade associations at page 17 and state on page 18 that "none of these groups have asked for changes to the NCC's procedures." In fact, three of those groups -- American Textile Manufacturers Institute, Rubber Manufacturers Association, and Secondary Materials and Recycled Textiles Association -- have filed comments in this proceeding calling for changes in NCC procedures, along with the Halogenated Solvents Industry Alliance, the North Carolina Traffic League, and Sara Lee Branded Apparel. In addition, members of many, if not most of the listed associations (which generally do not focus on transportation issues) are also members of one or more of the main national shipper associations -- NASSTRAC, H&PCDC, National Industrial Transportation League, or Transportation Consumer Protection Council, all of which have called for reforms.

shipper (which would probably make NCC Panel members the most saintly group of people in America), this system is bound to produce increases in class ratings that are erroneous, by design or by default. The desire of shippers for an effective voice in classification matters should not be construed as a willingness to assume the burden of disproving every call for reclassification that any NCC member carrier submits.

This leads to the more fundamental problem of shippers' negative perceptions of freight classification as it is currently conducted by the trucking industry, through the NCC, with antitrust immunity. Too many shippers believe that the benefit of the doubt goes to carriers, not shippers, and that participation in NCC proceedings is futile or dangerous, since their own data may be used against them.

Unless and until the structural reforms called for in the Opening Comments of the Shipper Conference and other shipper parties are implemented, this environment of mistrust is unlikely to change. Shippers are willing to work more closely with the NCC, but only if this cooperation takes place on a level playing field, and only if there are ways of reducing the number of meritless reclassification proposals that are docketed.

IV. THE NCC'S COMMENTS DO NOT ADDRESS STRUCTURAL REFORM ISSUES

The remedial action suggested by the NCC at page 15 of Mr. Foley's Statement cannot solve the foregoing problems. All of the nine items on Mr. Foley's list involve ideas to improve the flow of

information from shippers to the NCC, or from the NCC or its Staff to shippers. This information would then be processed in the same way it is today.

The Shipper Conferences do not object to better communications. Additional notice and access to data were among the reforms called for in the Conferences' Opening Comments. However, the NCC proposals do not fully satisfy shipper needs even as to access to data, since shippers will still have no access to file documents underlying Staff's analyses and reports, and will not know which carriers (or even how many carriers) seek changes. Moreover, shippers would, if anything, receive even more Staff information requests than they do today. The NCC proposes to begin contacting shippers to see if reductions in class ratings might be in order, but this is likely to strike many shippers as akin to offers of free information technology assessments by computer salesmen.

Much is made by the NCC of the summary of 75 Dockets (1989-1999) attached as Attachment B to Mr. Welsh's statement, and in particular, to Mr. Welsh's conclusion that out of 1500 proposals, only 307, or 20%, involved pure increases in class ratings. But there is another way of looking at those numbers. When non-controversial proposals involving packaging, clarification, or the removal of obsolete provisions are eliminated, we are left with 784 proposals involving changes in class ratings. Of these, 559, or 71%, involved proposals that sought, in whole or in part, to increase commodity class ratings.

In general, most shippers are more interested in avoiding increases in the class ratings of their products than in obtaining reductions in their class ratings. And they would also like some relief from the NCC's frequent information requests. Once a proposal such as the rubber hose proposal has been disapproved, it should stay disapproved. And absent a significant change in transportation characteristics, shippers generally want the class ratings of their freight left alone. But these goals will not be achieved under the NCC's proposals.

The NCC's proposals address only notice and access to information. Because the problems with the status quo go deeper than that, the NCC's proposals are inadequate.

**V. THE SHIPPER CONFERENCES' PROPOSED REFORMS WILL
PRODUCE MORE FAIR AND OBJECTIVE
CLASSIFICATION DECISIONS**

The Shipper Conferences' Opening Comments called for reforms in the area of notice and access to data that go beyond the NCC's proposals (while acknowledging that some progress has been made on this front). The Conferences' Comments also called for reforms that would reduce shippers' dependence on the goodwill of the NCC's carrier members and Staff. No doubt many in the NCC try to act conscientiously, but there is an inherent conflict of interest in the current NCC procedures.

Both the reality and the appearance of greater fairness and objectivity would result from the adoption of further reforms. These include:

- full access for shippers to NCC data;
- clearer, less subjective and more quantifiable standards for decision-making, including a review of the NCC's Density Guidelines;
- a voice for shippers or shipper representatives in the actual decision-making process;
- appellate procedures involving a neutral third party;
- reforms as to bills of lading and related NMFC provisions; and
- a requirement that there be an adequate showing of changed circumstances before shippers may be subjected to commodity reclassification procedures. There should be a rebuttable presumption that current class ratings are appropriate, in order to reduce the incidence of repeated attempts to reclassify freight based on flimsy or unrepresentative requests for change by one or a few carriers.

The Shipper Conferences recognize that the NCC Opening Comments were not designed to address reforms called for in shippers' Opening Comments. NCC's Reply Comments will address those issues, and, fortunately, the Board rejected NCC's attempt to preclude shippers' rebuttal comments. However, nothing in the

NCC's Opening Comments has caused the Shipper Conferences to reconsider their call for further reforms.

VI. THE NEED FOR A MORATORIUM ON RECLASSIFICATION

In their Opening Comments, the Shipper Conferences called for a moratorium on reclassification, or at least a moratorium on contested reclassification, until after the Board has decided what new conditions to impose on the NCC, and those conditions have been implemented. In their Opening Comments, the Halogenated Solvents Industry Alliance ("HSIA") sought similar relief.

As explained above, the NCC recently decided to defer action as to the poisonous materials docket item that was cited by HSIA and the Shipper Conferences as presenting the greatest threat of an unjustified (and extreme) class rate increase. This lessens but does not eliminate the need for restraint by the NCC during the pendency of this reform proceeding. The Shipper Conferences continue to support the postponement of controversial reclassification matters until any changes called for by the Board are in place.

VII. CONCLUSION

For the reasons set forth above and in the Shipper Conferences' Opening Comments, the STB should implement the Conferences' proposed reforms.

Respectfully submitted,

National Small Shipments
Traffic Conference, Inc.

The Health and Personal Care
Distribution Conference, Inc.

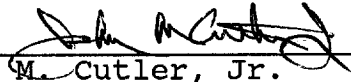

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Dated: May 11, 2000

CERTIFICATE OF SERVICE

I hereby certify that I have this 11th day of May 2000 caused copies of the foregoing document to be served on all parties of record by first class mail, postage prepaid.



John M. Cutler, Jr.

Docket 2000-2
Review Matter C
April 19, 2000

RESEARCH PROJECT REPORT

Research Project: 744 - Belts or Belting, Items 23320 and 23340

Staff Member Assigned: William F. Mascaro

Present Classification Provisions:

Item No.	Description	Class
23320	Belts or Belting, elevator, conveyor or transmission, rubber, plastic or woven fabric, separate or combined, see Note, item 23322, other than 'V' type, in packages	70
23322	NOTE - (Class also applies on woven fabric belting impregnated with wax or bituminous compounds.	
23340	Belts or Belting, NOI, in packages	77.5

Background: This project was initiated at the request of a member carrier in 1996.

Scope of Project: During the course of this Project the staff contacted 126 potential shippers of belts or belting. Two companies responded with useful information. Additional information has been developed through carrier supplied Shipment Information Forms.

Analysis of Facts Gathered: The provisions of item 23340 were adopted from the rails in 1936. At that time the item applied on "Belting, NOI, other than chain belting." As a result of action taken on Docket 37, Subject 77, item 23340 was amended to read "Belts or Belting, NOI, in packages." The change was made in the interest of clarification and first appeared in Supplement 18 to NMF No. 9, effective January 14, 1949. The item has remained substantially unchanged to the present.

The provisions of item 23320 were established as a result of action taken on Docket 74, Subject 14 (June 1956) and first appeared in Supplement 7 to NMF A-3, effective December 6, 1956. Information from the record shows that elevator, conveyor or transmission belts or belting ranged in density from 37 to 59 pounds per cubic foot, with an average density of 50 pcf. The record further showed that v-type belts or belting had densities ranging from 12 to 20 pcf. There have been no changes to item 23320 since its establishment.

Information developed on the transportation characteristics is as follows:

Density - Overall, the information developed indicates a range in density from 4.20 to 115.38 pcf, with a simple average density of 29.39 pcf. While this is an extremely wide range in density, a review of the figures reveals two distinct groups of densities. A slight majority of the figures fall below 15 pcf, while the remainder is at least 20 or greater pcf. Using this naturally occurring line of demarcation, those figures below 15 pcf range from 4.20 to 12 pcf, and have a simple average density of 9.04 pcf. The information available at 15 or greater pcf shows a range in density from 21.63 to 115.38 pcf, with a simple average density of 56.52 pcf. Within this heavier group, the majority of the figures range from 21.63 to 42.56 pcf. The next heavier figure is 115.38 pcf.

When the 115.38 figure is removed from the range, the average density is 27.09 pcf.

Handling – Belts or belting is generally packaged for shipment in boxes that are then unitized to a pallet. There is no indication of any unusual handling considerations.

Stowing – There is no indication of any unusual stowing considerations although heavy pallets would require floor loading.

Liability – There is no indication that any of the factors comprising the element of liability would present any difficulties. Information available on the value of belts or belting indicates a range from \$0.09 to 6.25 per pound, with a simple average value per pound of \$2.17.

NCC Guidelines and Precedent: NCC policy calls for classification provisions to be as clear as possible to preclude interpretation disputes. Questions have arisen regarding the reference to "v-type" belts and its application to conveyor belts that are flat but contain v-shaped ribs designed to fit inside conveyor rollers. Canceling the provisions of item 23320 with reference to item 23340 would group these items together and promote clarification and simplification.

NCC policy also calls for classification provisions to reflect a commodity's known transportation characteristics. Information developed through Project 744 reveals that belts or belting exhibit densities ranging from 4.20 to 115.38 pcf, with a simple average density of 29.39 pcf. By comparison, NCC guidelines for the currently applicable class 70 per item 23320, "Belts or Belting, elevator, conveyor or transmission, rubber, plastic or woven fabric, separate or combined, other than v-type," call for a minimum average density of 15 pcf. Likewise, NCC guidelines for the class 77.5 applicable to item 23340, "Belts or Belting, NOI," call for a minimum average density 13.5 pcf. Neither of these items provides a means for addressing the wide range in density exhibited by this commodity.

As detailed above, there appears to be two distinct groupings of densities for belts or belting based on the known data. The lower density products have densities of less than 15 pcf, while heavier products have densities of 15 pcf or greater. Belts or belting having a density of less than 15 pcf range from 4.20 to 12.00 pcf, with a simple average density of 9.04 pcf. Under NCC guidelines, commodities that have an average density of 9.04 pcf are generally associated with a class 100, which calls for a minimum average density of 9 pcf.

Belts or belting having a density of 15 or greater pcf have been found to range from 21.63 to 115.38 pcf, with a simple average density of 56.52 pcf. Within this range, however, the majority of the figures are grouped between 21.63 to 42.56 pcf, with the next heavier figure being the 115.38 pcf belt. When this figure is factored out, the average density is 27.09 pcf. Under NCC guidelines, commodities that exhibit an average density of 56.52 pcf are generally associated with a class 50, which calls for a minimum average density of 50 pcf. Computed without the 115.38 pcf figure, which is substantially heavier than the next heavier figure of 42.56 pcf, the average density is 27.09 pcf. Under NCC guidelines, commodities that exhibit an average density of 27.09 pcf are generally associated with a class 65, which calls for a minimum average density of 22.5 pcf.

In keeping with NCC policy, the Attachment provides sample provisions for the Panel's consideration that would be in keeping with NCC policy and guidelines.

ATTACHMENT

Item No.	Description	Class
23320	Belts or Belting, elevator, conveyor or transmission, rubber, plastic or woven fabric, separate or combined, see Note, item 23322, other than 'V' type, in packagesCancel; see item 23340	
23322	NOTE - Cancel, no further application.	
23340	Belts or Belting, NOI, in packages, subject to Item 170 and having a density in pounds per cubic foot of:	
Sub 1	Less than 15	100
Sub 2	15 or greater	65