

STAFF REPORT

by

William J. Driver

April 13, 1976

We have reported to the Department of Commerce and the Federal Energy Administration that 107 member companies saved 4.0% in energy per unit of output for calendar 1975 as compared with calendar 1972. The energy saving would have been 4.9% except for environmental and OSHA regulations in effect in 1975 but not in 1972. The difference represents the added energy needed to implement these regulations. The 1975 results reflect the fact that the industry was operating at 74.2% of capacity during that year, as compared with 84.5% for 1974. Energy efficiency thus decreased as output relative to capacity dropped. In a trial run, 26 member companies reported a 7.96 percent reduction in energy use in 1974.

* * *

Smaller member companies continue to bring their views on toxic substances controls to the attention of the House Interstate and Foreign Commerce Committee. The 128 companies participating in the special program have alerted some 6000 customers and suppliers to the adverse effects of the Tunney and Eckhardt bills and have been actively supporting the administration (McCollister) bill. Through letters and visits nearly 400 contacts have been made with the House committee and other congressmen.

* * *

The Senate Finance Committee began hearings on tax revision and extension of tax reduction provisions on March 17. The hearings are expected to last at least a month, after which the committee probably will take a month or more to mark up either a comprehensive bill or several limited bills. The latter is likely if Chairman Russell Long (D-La.) finds he cannot push through a comprehensive measure by June 30, the date tax reduction provisions end. Neither Senator Long nor leaders of either party want to take responsibility for the reimposition of higher taxes during an election year.

Perry Wilson testified on behalf of MCA at the Finance Committee hearings on March 26. He stressed the need to stimulate capital formation and urged no changes in the foreign tax credit, deferral of taxation of foreign source income and DISC, all of which are used by U.S. industry to compete in world markets.

* *

The Senate passed by voice vote and without debate a comprehensive patent law revision bill (S.2255) on February 26. We oppose the legislation because it is burdensome, will make the process of acquiring a patent more costly and time-consuming and will lead to increased patent litigation. The responsible House subcommittee is not expected to work on the legislation for some months.

* * *

The Fourth Circuit Court of Appeals, in a case decided March 10, set aside inorganic effluent guidelines on 11 substances promulgated under the Water Pollution Control Act Amendments of 1972. It remanded them to the Environmental Protection Agency for reconsideration. In so doing, the court cited "the confusion caused by this poorly drafted and astonishingly imprecise statute."

Acting on a petition for review brought by 11 chemical companies, the court also required EPA to redefine "effluent limitations," "process waste water" and "process waste water pollutants."

The court said that EPA's power to establish effluent limitations by regulations was at the heart of the controversy; it decided that the regulations are "presumptively applicable unless that presumption is rebutted."

* * *

The National Commission on Water Quality (NCWQ) essentially completed its assigned task on March 19, when it forwarded its report to Congress. The commission vote to submit the report was unanimous, even though several commissioners appended their own views. The key recommendations of the commission's report are very similar to MCA views. They are:

- Extensions of time be allowed on a discretionary case-by-case basis to meet 1977 requirements where progress toward compliance is being made.

- Requirements for 1977 be waived, deferred or modified on a case-by-case basis where costs are disproportionate to benefits or where adverse environmental effects will be minimal or undetectable.

- Congress defer 1983 requirements for 5 to 10 years.

- Toxic pollutants in toxic concentrations be controlled as soon as possible but before October 1, 1980.

- Congress stress conservation and reuse of resources and redefine the goal of "elimination of discharges" where it concerns "the chemical, physical, and biological integrity of the nation's waters."

STAFF REPORT

by

William J. Driver

April 13, 1976

We have reported to the Department of Commerce and the Federal Energy Administration that 107 member companies saved 4.0% in energy per unit of output for calendar 1975 as compared with calendar 1972. The energy saving would have been 4.9% except for environmental and OSHA regulations in effect in 1975 but not in 1972. The difference represents the added energy needed to implement these regulations. The 1975 results reflect the fact that the industry was operating at 74.2% of capacity during that year, as compared with 84.5% for 1974. Energy efficiency thus decreased as output relative to capacity dropped. In a trial run, 26 member companies reported a 7.96 percent reduction in energy use in 1974.

* * *

Smaller member companies continue to bring their views on toxic substances controls to the attention of the House Interstate and Foreign Commerce Committee. The 128 companies participating in the special program have alerted some 6000 customers and suppliers to the adverse effects of the Tunney and Eckhardt bills and have been actively supporting the administration (McCollister) bill. Through letters and visits nearly 400 contacts have been made with the House committee and other congressmen.

* * *

The Senate Finance Committee began hearings on tax revision and extension of tax reduction provisions on March 17. The hearings are expected to last at least a month, after which the committee probably will take a month or more to mark up either a comprehensive bill or several limited bills. The latter is likely if Chairman Russell Long (D-La.) finds he cannot push through a comprehensive measure by June 30, the date tax reduction provisions end. Neither Senator Long nor leaders of either party want to take responsibility for the reimposition of higher taxes during an election year.

Perry Wilson testified on behalf of MCA at the Finance Committee hearings on March 26. He stressed the need to stimulate capital formation and urged no changes in the foreign tax credit, deferral of taxation of foreign source income and DISC, all of which are used by U.S. industry to compete in world markets.

* * *

The Senate passed by voice vote and without debate a comprehensive patent law revision bill (S.2255) on February 26. We oppose the legislation because it is burdensome, will make the process of acquiring a patent more costly and time-consuming and will lead to increased patent litigation. The responsible House subcommittee is not expected to work on the legislation for some months.

* * *

The Fourth Circuit Court of Appeals, in a case decided March 10, set aside inorganic effluent guidelines on 11 substances promulgated under the Water Pollution Control Act Amendments of 1972. It remanded them to the Environmental Protection Agency for reconsideration. In so doing, the court cited "the confusion caused by this poorly drafted and astonishingly imprecise statute."

Acting on a petition for review brought by 11 chemical companies, the court also required EPA to redefine "effluent limitations," "process waste water" and "process waste water pollutants."

The court said that EPA's power to establish effluent limitations by regulations was at the heart of the controversy; it decided that the regulations are "presumptively applicable unless that presumption is rebutted."

* * *

The National Commission on Water Quality (NCWQ) essentially completed its assigned task on March 19, when it forwarded its report to Congress. The commission vote to submit the report was unanimous, even though several commissioners appended their own views. The key recommendations of the commission's report are very similar to MCA views. They are:

- Extensions of time be allowed on a discretionary case-by-case basis to meet 1977 requirements where progress toward compliance is being made.

- Requirements for 1977 be waived, deferred or modified on a case-by-case basis where costs are disproportionate to benefits or where adverse environmental effects will be minimal or undetectable.

- Congress defer 1983 requirements for 5 to 10 years.

- Toxic pollutants in toxic concentrations be controlled as soon as possible but before October 1, 1980.

- Congress stress conservation and reuse of resources and redefine the goal of "elimination of discharges" where it concerns "the chemical, physical, and biological integrity of the nation's waters."

STAFF REPORT

by

William J. Driver

April 13, 1976

We have reported to the Department of Commerce and the Federal Energy Administration that 107 member companies saved 4.0% in energy per unit of output for calendar 1975 as compared with calendar 1972. The energy saving would have been 4.9% except for environmental and OSHA regulations in effect in 1975 but not in 1972. The difference represents the added energy needed to implement these regulations. The 1975 results reflect the fact that the industry was operating at 74.2% of capacity during that year, as compared with 84.5% for 1974. Energy efficiency thus decreased as output relative to capacity dropped. In a trial run, 26 member companies reported a 7.96 percent reduction in energy use in 1974.

* * *

Smaller member companies continue to bring their views on toxic substances controls to the attention of the House Interstate and Foreign Commerce Committee. The 128 companies participating in the special program have alerted some 6000 customers and suppliers to the adverse effects of the Tunney and Eckhardt bills and have been actively supporting the administration (McCollister) bill. Through letters and visits nearly 400 contacts have been made with the House committee and other congressmen.

* * *

The Senate Finance Committee began hearings on tax revision and extension of tax reduction provisions on March 17. The hearings are expected to last at least a month, after which the committee probably will take a month or more to mark up either a comprehensive bill or several limited bills. The latter is likely if Chairman Russell Long (D-La.) finds he cannot push through a comprehensive measure by June 30, the date tax reduction provisions end. Neither Senator Long nor leaders of either party want to take responsibility for the reimposition of higher taxes during an election year.

Perry Wilson testified on behalf of MCA at the Finance Committee hearings on March 26. He stressed the need to stimulate capital formation and urged no changes in the foreign tax credit, deferral of taxation of foreign source income and DISC, all of which are used by U.S. industry to compete in world markets.

* * *

9. September 30, 1975 - W. J. Driver letter to General Frederick J. Clarke, Executive Director, National Commission on Water Quality, on MCA Views on First Staff Draft Report of the NCWQ.
10. October 9, 1975 - J. G. Tritsch letter transmitting letter to Water Resources Committee and Legislative Task Group on MCA Testimony on H.R. 9560 with enclosure of Statement of the MCA to Subcommittee on Water Resources Committee on Public Works and Transportation.
11. January 5, 1976 - W. J. Driver to Executive Contacts of MCA Member Firms on National Commission on Water Quality (NCWQ) Staff Draft Report - November 1975.
12. January 19, 1976 - A. C. Clark letter to Legal Branch of EPA on proposed Regulations Separate Storm Sewers 40 CFR Parts 124, 125.
13. February 11, 1976 - A. C. Clark letter to Ridgway M. Hall, Jr., Special Assistant to the General Counsel (A-131), EPA, on comments in response to the Notice of Proposed Rulemaking Concerning Effluent Standards for Toxic Pollutants (40 CFR Part 104), published in the Federal Register on January 12, 1976.
14. February 26, 1976 - A. C. Clark letter of February 26, 1976 to Dr. C. Hugh Thompson, EPA, on 40 CFR Parts 116, 117, 118, 119 - Hazardous Substances Designation, Removability, Harmful Quantities, Penalty Rates.

Note: In addition to the fourteen communications reported here, fifty-seven others were made to EPA and others from the time of passage of the Federal Water Pollution Control Act in October 1972, to the period covered by this report.

Chronological Log of MCA Communications Pertinent to
Regulatory Proposals and Related Matters under
P.L. 92-500 from February 1975 through February 1976

1. February 24, 1975 - A. C. Clark letter responding to EPA's proposed pretreatment standards for existing plastics and synthetic point source categories.
2. March 4, 1975 - H. B. Brown letter to EPA's Mr. Groszyk commenting on a January 1975 draft of the third edition of the "Water Quality Strategy Paper."
3. March 7, 1975 - A. C. Clark letter to Robert Sansom of Energy and Environmental Analysis, Inc., on the matter of the firm's contract with the National Commission on Water Quality to study the P.L. 92-500 permit and guidelines program.
4. March 12, 1975 - W. J. Driver letter to Dr. Gee, Commissioner, National Commission on Water Quality on MCA's involvement in industry studies of the National Commission.
5. March 24, 1975 - H. B. Brown letter to the EPA Effluent Guidelines Division advising that MCA would not comment on a report covering the minerals industry.
6. May 15, 1975 - A. C. Clark letter to the Comment Clerk on proposed interim standards for drinking water.
7. August 14, 1975 - A. C. Clark letter to EPA Office of Public Affairs on proposed final rule making for the Inorganic Chemicals Manufacturing Point Source Category (40 CFR Part 415).
8. August 18, 1975 - A. C. Clark letter to Mr. Allen Cywin, Director, Effluent Guidelines Division, EPA, on Proposed Pretreatment Standards Draft Dated 9 July 1975.

9. September 30, 1975 - W. J. Driver letter to General Frederick J. Clarke, Executive Director, National Commission on Water Quality, on MCA Views on First Staff Draft Report of the NCWQ.
10. October 9, 1975 - J. G. Tritsch letter transmitting letter to Water Resources Committee and Legislative Task Group on MCA Testimony on H.R. 9560 with enclosure of Statement of the MCA to Subcommittee on Water Resources Committee on Public Works and Transportation.
11. January 5, 1976 - W. J. Driver to Executive Contacts of MCA Member Firms on National Commission on Water Quality (NCWQ) Staff Draft Report - November 1975.
12. January 19, 1976 - A. C. Clark letter to Legal Branch of EPA on proposed Regulations Separate Storm Sewers 40 CFR Parts 124, 125.
13. February 11, 1976 - A. C. Clark letter to Ridgway M. Hall, Jr., Special Assistant to the General Counsel (A-131), EPA, on comments in response to the Notice of Proposed Rulemaking Concerning Effluent Standards for Toxic Pollutants (40 CFR Part 104), published in the Federal Register on January 12, 1976.
14. February 26, 1976 - A. C. Clark letter of February 26, 1976 to Dr. C. Hugh Thompson, EPA, on 40 CFR Parts 116, 117, 118, 119 - Hazardous Substances Designation, Removability, Harmful Quantities, Penalty Rates.

Note: In addition to the fourteen communications reported here, fifty-seven others were made to EPA and others from the time of passage of the Federal Water Pollution Control Act in October 1972, to the period covered by this report.

Chronological Log of MCA Communications Pertinent to
Regulatory Proposals and Related Matters under
P.L. 92-500 from February 1975 through February 1976

1. February 24, 1975 - A. C. Clark letter responding to EPA's proposed pretreatment standards for existing plastics and synthetic point source categories.
2. March 4, 1975 - H. B. Brown letter to EPA's Mr. Groszyk commenting on a January 1975 draft of the third edition of the "Water Quality Strategy Paper."
3. March 7, 1975 - A. C. Clark letter to Robert Sansom of Energy and Environmental Analysis, Inc., on the matter of the firm's contract with the National Commission on Water Quality to study the P.L. 92-500 permit and guidelines program.
4. March 12, 1975 - W. J. Driver letter to Dr. Gee, Commissioner, National Commission on Water Quality on MCA's involvement in industry studies of the National Commission.
5. March 24, 1975 - H. B. Brown letter to the EPA Effluent Guidelines Division advising that MCA would not comment on a report covering the minerals industry.
6. May 15, 1975 - A. C. Clark letter to the Comment Clerk on proposed interim standards for drinking water.
7. August 14, 1975 - A. C. Clark letter to EPA Office of Public Affairs on proposed final rule making for the Inorganic Chemicals Manufacturing Point Source Category (40 CFR Part 415).
8. August 18, 1975 - A. C. Clark letter to Mr. Allen Cywin, Director, Effluent Guidelines Division, EPA, on Proposed Pretreatment Standards Draft Dated 9 July 1975.

output of this communications effort was the identification of the need for a review of land use controls contained in existing and pending legislation, and the appointment of a joint task group to carry out this work. In the environmental committees' officers' minds, it is likely that the land use controls that can be imposed through existing legislation are very significant, and are sufficient to make the need for a federal land use act virtually needless. We suspect that there is not wide recognition of this fact on the part of MCA member companies, and one purpose of the joint task group is to bring this matter to a higher level of understanding within MCA.

As a closing item, I would like to bring the Board's attention to the matter of membership on the Water Resources Committee. This Committee reached its full roster of 35 members for the first time in May 1973, after over 25 years of existence. Since that time, ten new members have been added to the Committee, with membership opportunities becoming available as a result of resignations of some members who had undergone job changes in their companies, and of other members whose resignations were encouraged as a result of their poor attendance or participation in Committee activities. At this point, we stand with a full membership of 35, and a list of 10 nominees. In accordance with our understanding that the Board will not allow any increase in the number of members, we must now begin a program of rotation of members; while screening nominees more thoroughly, to be sure that the Committee's performance level can be maintained. In accordance with the Committee's Rules of Procedure, members selected for rotation will be on the basis of attendance at meetings and contribution and participation in the Committee's work. Since attendance is now almost universally at a high level, the latter criterion will probably govern most decisions. We anticipate some adverse reactions as some members are advised of their rotation.

George J. Hanks, Jr., Chairman

Attachment: Chronological Log of MCA Communications Pertinent to
Regulatory Proposals and Related Matters under
P.L. 92-500 from February 1975 through February 1976

CMA 036939

relate to regulation of hazardous chemicals, and which do not fall within the charter of any of the present technical committees.

In another attempt to become more forward looking in the Committee activities, we are currently undergoing an exercise of attempting to forecast issues and events that may occur which will have some effect on areas of interest to the Water Resources Committee. We will attempt to build the output from this forecasting exercise into Committee planning, as well as assuring that we have a special sensitivity to the first signs of any of the forecasted events.

As mentioned, one of the Committee meetings this past year was held at VPI, in order to view and discuss the work being carried out there on biological monitoring, and which is partially funded by MCA. The Water Resources Committee is convinced that the seed money for the projects being carried out there has been effectively utilized. Professor John Cairns has a worldwide reputation in the biological monitoring field, and MCA is sharing in the credit for the advances being made by the VPI studies. One key output of the current research activity is a project to evaluate the efficacy of a continuous fish biomonitoring system in an industrial plant, using the fish sensitivity measuring systems developed in earlier phases of VPI work. The demonstration unit at the Celanese Fiber Company at Narrows, Virginia is past the construction and shakedown stages, and has completed a period of offline operation. During the phase now being started, the system will be operated on a continuous basis as an effluent quality control monitor. MCA has included in its fiscal 1976-1977 budget an amount of \$31,500 which will include: completion of the fish biomonitoring demonstration study, establishment of a research program developing and testing methods to evaluate the impact of pollutants on the functioning of the aquatic ecosystem, and development of a mobile bioassay vehicle prototype which can be brought to industrial sites that do not have the capability of performing on-site effluent bioassays.

When the environmental committees reported to the Board last year, the environmental technical committee chairmen expressed concern regarding committee staff organization and procedure which hindered the effectiveness of their committees. Perhaps not all of these concerns have been completely resolved. However, as a result of the study by the Board's Environmental Management Review Committee, there has been a higher level of communication between the MCA staff and our Committee's officers, and between the environmental committees themselves. One visible

Within the last two to three years, public and governmental interest in the health hazards of chemicals has increased significantly. In addition to the Toxic Substances Control Act, which the MCA Board members are thoroughly acquainted with, the toxic hazards of chemicals influence many of the activities of the environmental committees. In the case of the Water Resources Committee, these include control of toxic pollutants in effluents and spills of hazardous chemicals, and the uncertain direction which the 1975 Safe Drinking Water Act may have on our companies' operations.

It is becoming increasingly evident that the main thrust of many future environmental regulations will be addressed to specific hazardous chemicals. As one example, the U.S. District Court recently agreed to a joint stipulation signed by EPA and chemical company litigants to remand and reconsider the effluent guidelines for the organic chemicals industry. From comments by EPA it is apparent that, in the course of this reconsideration, EPA is going to give specific attention to certain chemicals which may be present in various plant effluents, rather than solely emphasizing control of general pollutant parameters as in the past. The matter of Water Resources Committee response to this increased emphasis on specific chemicals in the water and environment led to two recent meetings of Committee officers and key subcommittee chairmen to discuss what changes of structure, if any, within the Water Resources Committee are necessary to respond to this trend. In addition, a special one-day seminar for Water Resources Committee members has been scheduled for May 25 for the purpose of bringing all the members "up to speed" on these matters.

Our Committee also feels that there is need for MCA itself to review its technical committee structure in the matter of toxicity of chemicals as it relates to different facets of chemical industry interest represented by these committees. At present, these matters are addressed by individual technical committees, without any overview being provided through MCA, and frequently without having toxicological resource personnel available to advise the committees. We sense the need for a group that would provide overall coordination and communication regarding the toxic hazards of chemicals, and which could act as a source of resource personnel to the various specialized technical committees which address toxicity problems in their particular areas of expertise. Also, it should be responsible for advising MCA on certain occasional broad subjects that

The Commission's final staff draft report was the subject of public hearings held in January, and F. Perry Wilson of Union Carbide presented the MCA statement to the Commissioners at their public meeting in Washington on January 19, 1976. The report of the Commission is complete, and we consider the recommendations that it contains to be reasonably consistent with the positions that were argued in the MCA statement, and include:

- Deferral of the best available technology requirement of 1983 until the environmental improvements associated with installation of the first phase of technology by industry and municipalities can be evaluated,
- Upgrading discharges where water quality standards are not being met,
- Proceeding with the control of discharge of toxic pollutants in toxic concentrations.

We believe that concentrating future investments for water pollution control where the benefits will be apparent will be much more productive than further broad control of all discharges.

Our next effort must be directed toward achieving amendments of the Federal Water Pollution Control Act that are consistent with these recommendations. Toward that end, a special task group was assigned last year to develop a position paper on amendments to the Federal Water Pollution Control Act which the Water Resources Committee believes are necessary. This position paper will be subject to final review at our May meeting, after which we intend to transmit it to the Board for their approval and adoption as an official MCA position. We understand that it is unlikely that the Congress will give any serious attention to amending the Act until 1977. However, we hope that with the position paper approved and in-hand, the MCA Government Relations, Public Relations and Water Resources Committees can join in developing a strategy and program to achieve our objectives in this area.

In September the Committee Chairman participated in presenting MCA's views to the House Committee on Public Works Subcommittee on Water Resources regarding H.R. 9560; a bill which contains some minor amendments to the Federal Water Pollution Control Act, of which two are of interest to the chemical industry.

Within the last two to three years, public and governmental interest in the health hazards of chemicals has increased significantly. In addition to the Toxic Substances Control Act, which the MCA Board members are thoroughly acquainted with, the toxic hazards of chemicals influence many of the activities of the environmental committees. In the case of the Water Resources Committee, these include control of toxic pollutants in effluents and spills of hazardous chemicals, and the uncertain direction which the 1975 Safe Drinking Water Act may have on our companies' operations.

It is becoming increasingly evident that the main thrust of many future environmental regulations will be addressed to specific hazardous chemicals. As one example, the U.S. District Court recently agreed to a joint stipulation signed by EPA and chemical company litigants to remand and reconsider the effluent guidelines for the organic chemicals industry. From comments by EPA it is apparent that, in the course of this reconsideration, EPA is going to give specific attention to certain chemicals which may be present in various plant effluents, rather than solely emphasizing control of general pollutant parameters as in the past. The matter of Water Resources Committee response to this increased emphasis on specific chemicals in the water and environment led to two recent meetings of Committee officers and key subcommittee chairmen to discuss what changes of structure, if any, within the Water Resources Committee are necessary to respond to this trend. In addition, a special one-day seminar for Water Resources Committee members has been scheduled for May 25 for the purpose of bringing all the members "up to speed" on these matters.

Our Committee also feels that there is need for MCA itself to review its technical committee structure in the matter of toxicity of chemicals as it relates to different facets of chemical industry interest represented by these committees. At present, these matters are addressed by individual technical committees, without any overview being provided through MCA, and frequently without having toxicological resource personnel available to advise the committees. We sense the need for a group that would provide overall coordination and communication regarding the toxic hazards of chemicals, and which could act as a source of resource personnel to the various specialized technical committees which address toxicity problems in their particular areas of expertise. Also, it should be responsible for advising MCA on certain occasional broad subjects that

relate to regulation of hazardous chemicals, and which do not fall within the charter of any of the present technical committees.

In another attempt to become more forward looking in the Committee activities, we are currently undergoing an exercise of attempting to forecast issues and events that may occur which will have some effect on areas of interest to the Water Resources Committee. We will attempt to build the output from this forecasting exercise into Committee planning, as well as assuring that we have a special sensitivity to the first signs of any of the forecasted events.

As mentioned, one of the Committee meetings this past year was held at VPI, in order to view and discuss the work being carried out there on biological monitoring, and which is partially funded by MCA. The Water Resources Committee is convinced that the seed money for the projects being carried out there has been effectively utilized. Professor John Cairns has a worldwide reputation in the biological monitoring field, and MCA is sharing in the credit for the advances being made by the VPI studies. One key output of the current research activity is a project to evaluate the efficacy of a continuous fish biomonitoring system in an industrial plant, using the fish sensitivity measuring systems developed in earlier phases of VPI work. The demonstration unit at the Celanese Fiber Company at Narrows, Virginia is past the construction and shakedown stages, and has completed a period of offline operation. During the phase now being started, the system will be operated on a continuous basis as an effluent quality control monitor. MCA has included in its fiscal 1976-1977 budget an amount of \$31,500 which will include: completion of the fish biomonitoring demonstration study, establishment of a research program developing and testing methods to evaluate the impact of pollutants on the functioning of the aquatic ecosystem, and development of a mobile bioassay vehicle prototype which can be brought to industrial sites that do not have the capability of performing on-site effluent bioassays.

When the environmental committees reported to the Board last year, the environmental technical committee chairmen expressed concern regarding committee staff organization and procedure which hindered the effectiveness of their committees. Perhaps not all of these concerns have been completely resolved. However, as a result of the study by the Board's Environmental Management Review Committee, there has been a higher level of communication between the MCA staff and our Committee's officers, and between the environmental committees themselves. One visible

output of this communications effort was the identification of the need for a review of land use controls contained in existing and pending legislation, and the appointment of a joint task group to carry out this work. In the environmental committees' officers' minds, it is likely that the land use controls that can be imposed through existing legislation are very significant, and are sufficient to make the need for a federal land use act virtually needless. We suspect that there is not wide recognition of this fact on the part of MCA member companies, and one purpose of the joint task group is to bring this matter to a higher level of understanding within MCA.

As a closing item, I would like to bring the Board's attention to the matter of membership on the Water Resources Committee. This Committee reached its full roster of 35 members for the first time in May 1973, after over 25 years of existence. Since that time, ten new members have been added to the Committee, with membership opportunities becoming available as a result of resignations of some members who had undergone job changes in their companies, and of other members whose resignations were encouraged as a result of their poor attendance or participation in Committee activities. At this point, we stand with a full membership of 35, and a list of 10 nominees. In accordance with our understanding that the Board will not allow any increase in the number of members, we must now begin a program of rotation of members; while screening nominees more thoroughly, to be sure that the Committee's performance level can be maintained. In accordance with the Committee's Rules of Procedure, members selected for rotation will be on the basis of attendance at meetings and contribution and participation in the Committee's work. Since attendance is now almost universally at a high level, the latter criterion will probably govern most decisions. We anticipate some adverse reactions as some members are advised of their rotation.

George J. Hanks, Jr., Chairman

Attachment: Chronological Log of MCA Communications Pertinent to
Regulatory Proposals and Related Matters under
P.L. 92-500 from February 1975 through February 1976

Chronological Log of MCA Communications Pertinent to
Regulatory Proposals and Related Matters under
P.L. 92-500 from February 1975 through February 1976

1. February 24, 1975 - A. C. Clark letter responding to EPA's proposed pretreatment standards for existing plastics and synthetic point source categories.
2. March 4, 1975 - H. B. Brown letter to EPA's Mr. Groszyk commenting on a January 1975 draft of the third edition of the "Water Quality Strategy Paper."
3. March 7, 1975 - A. C. Clark letter to Robert Sansom of Energy and Environmental Analysis, Inc., on the matter of the firm's contract with the National Commission on Water Quality to study the P.L. 92-500 permit and guidelines program.
4. March 12, 1975 - W. J. Driver letter to Dr. Gee, Commissioner, National Commission on Water Quality on MCA's involvement in industry studies of the National Commission.
5. March 24, 1975 - H. B. Brown letter to the EPA Effluent Guidelines Division advising that MCA would not comment on a report covering the minerals industry.
6. May 15, 1975 - A. C. Clark letter to the Comment Clerk on proposed interim standards for drinking water.
7. August 14, 1975 - A. C. Clark letter to EPA Office of Public Affairs on proposed final rule making for the Inorganic Chemicals Manufacturing Point Source Category (40 CFR Part 415).
8. August 18, 1975 - A. C. Clark letter to Mr. Allen Cywin, Director, Effluent Guidelines Division, EPA, on Proposed Pretreatment Standards Draft Dated 9 July 1975.

9. September 30, 1975 - W. J. Driver letter to General Frederick J. Clarke, Executive Director, National Commission on Water Quality, on MCA Views on First Staff Draft Report of the NCWQ.
10. October 9, 1975 - J. G. Tritsch letter transmitting letter to Water Resources Committee and Legislative Task Group on MCA Testimony on H.R. 9560 with enclosure of Statement of the MCA to Subcommittee on Water Resources Committee on Public Works and Transportation.
11. January 5, 1976 - W. J. Driver to Executive Contacts of MCA Member Firms on National Commission on Water Quality (NCWQ) Staff Draft Report - November 1975.
12. January 19, 1976 - A. C. Clark letter to Legal Branch of EPA on proposed Regulations Separate Storm Sewers 40 CFR Parts 124, 125.
13. February 11, 1976 - A. C. Clark letter to Ridgway M. Hall, Jr., Special Assistant to the General Counsel (A-131), EPA, on comments in response to the Notice of Proposed Rulemaking Concerning Effluent Standards for Toxic Pollutants (40 CFR Part 104), published in the Federal Register on January 12, 1976.
14. February 26, 1976 - A. C. Clark letter of February 26, 1976 to Dr. C. Hugh Thompson, EPA, on 40 CFR Parts 116, 117, 118, 119 - Hazardous Substances Designation, Removability, Harmful Quantities, Penalty Rates.

Note: In addition to the fourteen communications reported here, fifty-seven others were made to EPA and others from the time of passage of the Federal Water Pollution Control Act in October 1972, to the period covered by this report.

STAFF REPORT

by

William J. Driver

April 13, 1976

We have reported to the Department of Commerce and the Federal Energy Administration that 107 member companies saved 4.0% in energy per unit of output for calendar 1975 as compared with calendar 1972. The energy saving would have been 4.9% except for environmental and OSHA regulations in effect in 1975 but not in 1972. The difference presents the added energy needed to implement these regulations. The 1975 results reflect the fact that the industry was operating at 74.2% of capacity during that year, as compared with 84.5% for 1974. Energy efficiency thus decreased as output relative to capacity dropped. In a trial run, 26 member companies reported a 7.96 percent reduction in energy use in 1974.

* * *

Smaller member companies continue to bring their views on toxic substances controls to the attention of the House Interstate and Foreign Commerce Committee. The 128 companies participating in the special program have alerted some 6000 customers and suppliers to the adverse effects of the Tunney and Eckhardt bills and have been actively supporting the administration (McCollister) bill. Through letters and visits nearly 400 contacts have been made with the House committee and other congressmen.

* * *

The Senate Finance Committee began hearings on tax revision and extension of tax reduction provisions on March 17. The hearings are expected to last at least a month, after which the committee probably will take a month or more to mark up either a comprehensive bill or several limited bills. The latter is likely if Chairman Russell Long (D-La.) finds he cannot push through a comprehensive measure by June 30, the date tax reduction provisions end. Neither Senator Long nor leaders of either party want to take responsibility for the reimposition of higher taxes during an election year.

Perry Wilson testified on behalf of MCA at the Finance Committee hearings on March 26. He stressed the need to stimulate capital formation and urged no changes in the foreign tax credit, deferral of taxation of foreign source income and DISC, all of which are used by U.S. industry to compete in world markets.

* * *

The Senate passed by voice vote and without debate a comprehensive patent law revision bill (S.2255) on February 26. We oppose the legislation because it is burdensome, will make the process of acquiring a patent more costly and time-consuming and will lead to increased patent litigation. The responsible House subcommittee is not expected to work on the legislation for some months.

* * *

The Fourth Circuit Court of Appeals, in a case decided March 10, set aside inorganic effluent guidelines on 11 substances promulgated under the Water Pollution Control Act Amendments of 1972. It remanded them to the Environmental Protection Agency for reconsideration. In so doing, the court cited "the confusion caused by this poorly drafted and astonishingly imprecise statute."

Acting on a petition for review brought by 11 chemical companies, the court also required EPA to redefine "effluent limitations," "process waste water" and "process waste water pollutants."

The court said that EPA's power to establish effluent limitations by regulations was at the heart of the controversy; it decided that the regulations are "presumptively applicable unless that presumption is rebutted."

* * *

The National Commission on Water Quality (NCWQ) essentially completed its assigned task on March 19, when it forwarded its report to Congress. The commission vote to submit the report was unanimous, even though several commissioners appended their own views. The key recommendations of the commission's report are very similar to MCA views. They are:

- Extensions of time be allowed on a discretionary case-by-case basis to meet 1977 requirements where progress toward compliance is being made.

- Requirements for 1977 be waived, deferred or modified on a case-by-case basis where costs are disproportionate to benefits or where adverse environmental effects will be minimal or undetectable.

- Congress defer 1983 requirements for 5 to 10 years.

- Toxic pollutants in toxic concentrations be controlled as soon as possible but before October 1, 1980.

- Congress stress conservation and reuse of resources and red fine the goal of "elimination of discharges" where it concerns "the chemical, physical, and biological integrity of the nation's waters."