

Manufacturing Chemists' Association, Inc.

(FOUNDED 1872)

1825 Connecticut Avenue, N. W.
WASHINGTON 9, D. C.

PLAINTIFF'S
EXHIBIT
CMA-167

MINUTES OF MEETING
LABELS AND PRECAUTIONARY INFORMATION COMMITTEE
WEST WING 1
WILLIAMSBURG LODGE
MONDAY, TUESDAY, JUNE 24 - 25, 1961
WILLIAMSBURG, VIRGINIA

The meeting came to order at 9 A.M. on Monday, June 24, 1961

PRESENT

Chester L. French, Chairman
Edward J. Hogan, Vice Chairman
Robert H. Dewey
Fred Ebersole
James W. Hammond
Edward J. Masek
George E. Merryman, Jr.
H. H. McIntyre
J. A. Mooney

John F. Osterritter, M.D.
Richard F. Philpitt
C. B. Shaffer
G. Robert Sido
F. D. Sparre
R. G. Troup
N. E. Wendt

N. G. White
James D. Kittelton, Secretary

Mallinckrodt Chemical Works
Allied Chemical Corporation
Commercial Solvents Corporation
General Aniline & Film Corporation
Humble Oil & Refining Company
Diamond Alkali Company
Union Carbide Canada Limited
The Dow Chemical Company
Food Machinery and Chemical
Corporation
Celanese Corporation of America
Olin Mathieson Chemical Corporation
American Cyanamid Company
Monsanto Chemical Company
E. I. du Pont de Nemours & Co., Inc.
J. T. Baker Chemical Company
American Potash & Chemical
Corporation
Shell Chemical Company
Manufacturing Chemists' Association,
Inc.

GUESTS

A. G. Cranch, M.D.
Donald P. Smoot
Charles C. Stevens

Celanese Corporation of America
Stauffer Chemical Company
Association of British Chemical
Manufacturers; Imperial
Chemical Industries Limited

ABSENT

J. T. Fuess

Eastman Organic Chemicals Dept.,
Distillation Products Industries
Pennsalt Chemicals Corporation
E. I. du Pont de Nemours & Co., Inc.
Union Carbide Corporation

Joseph T. Gormally

S. J. Hill

Thomas W. Nale, M.D.

The Chairman welcomed Messrs. Smoot and Stevens to the meeting. Dr. French said that he was especially pleased to have Mr. Charles Stevens present to continue the LAPI Committee's relationship with the Association of British Chemical Manufacturers.

Minutes of Meeting of May 24-25, 1961

The Chairman asked if there were any corrections to the minutes, and Mr. Wendt replied that the minutes on Page L-434, relating to Titanium Trichloride Anhydrous needed revision. The following heading would be added, preceding the second to the last paragraph on Page L-434:

"14. Zirconium Metal Powder."

Mr. Wendt said also that "TITANIUM TRICHLORIDE, ANHYDROUS and VANADIUM TETRACHLORIDE" should be deleted from the second to the last paragraph and that "ZIRCONIUM METAL POWDER" substituted therefor.

With this correction,

It was moved, seconded and voted

THAT, the minutes of the LAPI Committee meeting
of May 24-25 stand approved.

1.2 SUBCOMMITTEE ACTIVITIES(a) Pesticides

Mr. Sparre reported that the activity of his subcommittee was concerned with the Revision of Part III of the Manual.

(b) Dyestuffs

Dr. Ebersole read a letter which SOCMA is sending out to its membership concerning the precautionary labeling of dyestuffs.

Mr. Hogan submitted the final report of his subcommittee to the Chairman. In his report, Mr. Hogan indicated that SOCMA will continue this activity. Mr. Hogan also said that TAPPI was considering the recent work of the Dyestuffs Subcommittee.

The Chairman accepted the final report with thanks and, following Mr. Hogan's suggestion, discharged the subcommittee.

(c) Reactive Metals Subcommittee

Mr. Wendt said that he had sent Mr. Troup a letter dated June 12, 1961, concerning proposed labels for Zirconium Metal Powder and Pentaborane. Mr. Wendt's letter is included as APPENDIX A to these minutes.

(d) ILO Subcommittee

The Chairman said that he was discharging the ILO Subcommittee. He thanked Mr. Fuess and the other members of his subcommittee for their work.

Mr. Stevens briefly reviewed for the Committee the current status of ILO activity in the field of precautionary labeling. The ILO member governments have not approved the pictorial marking plan of ILO. ILO precautionary labeling activity appears to have tapered off.

(e) Reports of Nominating Subcommittee and Election of Officers

The Secretary read a letter from Mr. Fuess, Chairman of the Nominating Subcommittee that the following nominations be made for the years 1961-1963:

Chairman: Edward J. Hogan
Vice Chairman: R. G. Troup

Following this report,

It was moved, seconded, and voted

THAT, the nominations for the offices of Chairman and Vice Chairman be closed and that the Secretary be instructed to cast an unanimous ballot for Messrs. Hogan and Troup.

1.3 ALLIED COMMITTEE ACTIVITIES

1.3.1 CSMA

All of the activities of the CSMA Precautionary Labeling Committee has been concerned with the proposed regulations under the Federal Hazardous Substances Labeling Act.

1.3.2 API

Mr. Hammond reported that API was filing a comprehensive brief commenting on the proposed Federal labeling regulations.

1.3.3 NPV&L

Mr. Sparre said that there was nothing new to report concerning NPV&L precautionary labeling activities except that the paint association also was considering the proposed regulations under the Federal Hazardous Substances Labeling Act.

1.3.4 ACGIH

Several committee members attended the 1961 American Industrial Hygiene Conference held in Detroit, Michigan in April. Committee members said that it was a good meeting and voiced the opinion that better industry relations would result in the future with ACGIH.

1.3.6 NFPA

Mr. McIntyre said that there was nothing new to report at this time.

2.0 INTERNATIONAL

2.0.3 ABCM

The Chairman asked Mr. Stevens to say a few words concerning ABCM labeling activity. Mr. Stevens said that he was very pleased to be in attendance at the meeting and once again meet LAPI Committee members. Mr. Stevens said that he was responsible for ABCM liaison with the LAPI Committee and would like to take the opportunity to invite LAPI Committee representatives to visit Britain and to consult with the ABCM Marking of Containers Committee.

Mr. Stevens said that there were a number of reasons why he believed such consultations between MCA and ABCM were beneficial. He said that the exchange of views which resulted was quite worthwhile. Also, it is desirable for MCA and ABCM to have a uniform position on international labeling matters.

Mr. Stevens also reported that ABCM would soon begin work on a revision of the "Marking of Containers" Manual. If LAPI Committee members visit Britain, they would have the opportunity to see a prominent labeling exhibit sponsored by ABCM.

After the initial discussion, the Committee considered several questions which Mr. Stevens had sent to the Secretary and which were distributed to Committee members. Each matter was discussed, and Mr. Stevens took notes concerning the answers.

2.1 FEDERAL LEGISLATION

(a) Proposed Regulations Under Federal Hazardous Substances Labeling Act.

Dr. French reviewed for Committee members the recent inter-association meeting on precautionary labeling. This meeting was held the day after the recent LAPI Committee meeting.

Committee members discussed MCA's brief to be submitted to the FDA concerning the proposed regulations under the Federal Hazardous Substances Labeling Act. The Secretary said that he had incorporated in the brief suggestions received from LAPI Committee members and also suggestions made by MCA counsel.

After this discussion,

It was moved, seconded, and voted

THAT, The LAPI Committee extends a vote of appreciation to the Secretary for his work in preparing the MCA brief on the proposed regulations under the Federal Hazardous Substances Labeling Act.

(b) Need for Extension of Enforcement Provisions of Federal Hazardous Substances Labeling Act.

The LAPI Committee thoroughly discussed the need for an extension of the effective date of the enforcement provisions of the Federal Hazardous Substances Labeling Act. Mr. Sparre said that the Chemical Specialties Manufacturers Association had discussed this matter and had agreed that a one-year extension beyond January 31, 1962 was needed. Mr. Sparre said that it was agreed at the recent CSMA meeting that such an extension was urgently needed in the absence of substantial changes in the proposed regulations.

Mr. Sparre had discussed with Mr. King, over the phone from a CSMA Committee meeting in New York, the possibility of Mr. King taking the necessary steps to see that the extension legislation was introduced. Mr. King told Mr. Sparre that he, as MCA's representative, would not feel justified in presenting to Congress a request for extending the Act unless he was able to back up such a request with a clear justification. Mr. King said this was particularly true because last year he had personally urged that Congress not delay passage of the Hazardous Substances Labeling Bill. If he were given what appeared to be justification for immediate MCA action to extend the law, Mr. King said, he would discuss it with General Hull from the standpoint of MCA policy and also because it might be necessary to establish some order of priority among current MCA legislative interests. Mr. Sparre said a number of persons wished to try at once to get the law extended and he asked Mr. King whether, if someone from one of the other interested industry associations took the lead in such an effort, he could help him. Mr. King said that he could and he would, but that because other pending legislation of special interest to MCA now required most of his time, such assistance by him would have to be limited. In the meantime, until MCA's own position as to an extension had been decided, Mr. King said, he would be glad to introduce and assist informally anyone designated to take the lead in the effort to get the law amended.

LAPI members were specifically asked if such an extension of the statute were absolutely necessary. Committee members said that in the absence of substantial modification of the regulations it would be a physical impossibility to make the change over to completely new labels and containers. A rapid change-over would result in destruction of large stocks of lithographed cans, cartons, and labels. The Committee was of the opinion that this problem was being caused by the late issuance by FDA of the proposed regulations. The Committee felt that FDA really should be asking for the extension rather than industry. Both Mr. Carman and the Secretary emphasized they believed that other associations, such as CSMA, NPV&L, and the Soap Association, should take the lead in this matter.

Following this discussion,

It was moved, seconded, and voted

THAT, In view of the many and unexpected problems created by the proposed regulations, the LAPI Committee supports an amendment to the Federal Hazardous Substances Labeling Act to permit the extension of the enforcement provisions to January 31, 1963 and recommends that MCA take the necessary steps to achieve this.

(c) Public Meeting on Proposed Regulations

Mr. Carman announced that it had just been learned that the FDA would hold a public meeting on the proposed labeling regulations on Thursday and Friday, July 13-14. A notice of the meeting will appear in the FEDERAL REGISTER. The Chairman said that he was appointing the following individuals as members of a subcommittee to consider MCA's position at the public meeting:

Edward J. Hogan
Edward J. Masek
Dr. Thomas W. Nale
C. B. Shaffer
F. D. Sparre
James D. Kittelton

(d) Need for Exemption of Certain Hazardous Substances.

Committee members thoroughly discussed the action taken at the last Committee meeting in recommending that MCA file a petition requesting the exemption from the Federal Hazardous Substances Act of hazardous substances intended for laboratory use only, for experimental use only, or manufacturing use only. Mr. Carman said that he especially questioned the wording which would be used in the regulation exempting such products. The second proviso in the proposed regulation would require that there be "adequate instructions and precautionary statements for the guidance of those intended users..." The Secretary said that he had discussed this with Mr. Symington and that Mr. Symington agreed that the second proviso would open the door to possible FDA interpretation of what is meant by the phrase.

Following this discussion,

It was moved, seconded, and voted

THAT, The Committee reconsider the action taken at the last Committee meeting concerning exemption of hazardous substances intended for laboratory use only, for experimental use only, or for manufacturing use only.

This motion was passed by a vote of 11-2.

Following action on the above motion,

It was moved, seconded, and voted

THAT, The previous action on the exemption be altered by the deletion of Paragraph Two from the proposed wording for the exemption regulation.

This motion was passed by a vote of 13-1.

2.2 STATE LEGISLATION

2.2.1 California

Mr. Sparre reported that Mr. Duffy in California would not issue regulations under the new California Household Labeling Act until the Federal regulations have been issued.

2.2.4 Illinois

Dr. French reviewed for Committee members recent meetings of the Illinois Advisory Committee on the Illinois Hazardous Substances Labeling Act. Dr. French said that Senator Meyer of Illinois recently held a public hearing on proposed amendments to the Illinois Hazardous Substances Labeling Act. Senator Meyer later introduced a bill containing amendments to make the Illinois law conform to the Federal Hazardous Substances Labeling Act. This bill is S-828, and a copy has been sent to Committee members.

2.2.9 Ohio

Mr. Masek said that there was no activity in Ohio at the present time.

2.2.13 Utah

The Secretary reported that Utah had officially adjourned without taking final action on H. 31, a hazardous substances household labeling bill.

2.2.14 Kansas

The Committee briefly discussed the letter which Harold Smith, Commissioner of Labor of the State of Kansas, sent to Mr. C. B. Richards, of the Food Machinery and Chemical Corporation. A copy of Mr. Smith's letter was sent to LAPI Committee members by Mr. Crass on April 3rd. Mr. Sparre reported that he believed that no action need be taken by the LAPI Committee based upon his knowledge of the situation.

2.2.21 Minnesota

The Secretary reported that Minnesota Legislature had passed, and the Governor signed, a new Hazardous Substances Labeling Act. Copies of the new law will be sent to Committee members.

2.2.23 Missouri

Dr. French reported that, according to his latest information, the Missouri Legislature had not taken any action on the Hazardous Substances Labeling Bill, S-249. Dr. French is following the situation.

2.3 CITY REGULATIONS

2.3.3 Los Angeles

Mr. Hogan said that the Committee now had the complete file on the development of the Los Angeles fire code. Mr. Hogan said that he hoped to handle this situation after his work is completed on the revision of the Manual.

3.0 LABELS--SAFETY DATA SHEETS

(a) Labels for New and Revised Safety Data Sheets

The Secretary reported that the General Safety Committee was preparing new or revised safety data sheets for Acetic Anhydride, Acetone, Acrolein, Aniline, Boron Hydrides, Chloroform, Methyl Ethyl Ketone, and Methylene Chloride. The Secretary said that, with the exception of Methylene Chloride, labels for all of the other chemicals would appear in the revised Manual. A suggested label for Methylene Chloride appeared in the last edition of the Manual. Dr. Osteritter promised to review the medical sections of all of the above-listed chemicals and to notify the Chairman and Secretary if any revisions of the labels in the Manual were needed.

A safety data sheet is also being prepared on n-Butyllithium, but the medical section is not yet available.

5.0 REVISION OF MANUAL L-1

(a) Report of Subcommittee

The Chairman of the Revision Subcommittee, Mr. Hogan, reported that the work on the revised Manual had been finished with only a little proofreading left to be done. The Revision Subcommittee will review a final set of proofs before the Manual is published.

Mr. Hogan said that his Subcommittee suggested that MCA consider setting a price of \$2 per copy for the revised Manual.

After this report,

It was moved, seconded, and voted

THAT, The LAPI Committee extends its heartfelt thanks to the members of the Revision Subcommittee for the fine work which the Subcommittee has done on the Manual.

(b) Relationship of Manual to Federal Hazardous Substances Labeling Act.

At this point in the meeting, Mr. Carman said that he

wished to bring up a matter which General Hull had discussed with him. He said that General Hull believed that, if the Manual were to be published now, confusion might result. This would be due to the widespread interest in drafting precautionary labels for complying with the new Federal Hazardous Substances Labeling Act. The Secretary pointed out that on previous occasions the Committee had considered the relationship of the revised Manual to the new Federal labeling act. At the last Committee meeting, reference to the new Federal act was deleted from a footnote.

After this discussion,

It was moved, seconded, and voted

THAT, A suitable paragraph be drawn up and included in the revised Manual explaining the relationship of the Manual to the new Federal Hazardous Substances Labeling Act.

It was agreed that the Revision Subcommittee would determine where this paragraph would appear in the Manual. It was agreed, however, that it should be in a prominent location.

The Chairman announced that he was appointing a sub-committee, with Mr. Edward J. Masek as Chairman and Messrs. Kittleton and Sparre as members, to draft a statement carrying out the motion set out above.

(c) Title of Manual.

The Committee next thoroughly discussed the title of the revised Manual.

Following this discussion,

It was moved and seconded

THAT, The title of the revised Manual be changed to read: "Guide to Precautionary Labeling of the Industrial Chemicals."

This motion was defeated by a vote of 5-9.

6.0 LABELING CONFERENCE

It was agreed that any decision on holding a labeling conference should be deferred until after issuance of the final regulations under the Federal Hazardous Substances Labeling Act. The possibility of joint sponsorship of a conference with CSMA was mentioned.

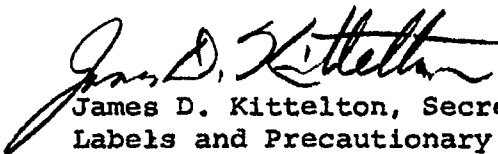
MISCELLANEOUS

(a) 1962 Packaging and Transportation Symposium.

The Chairman reported that he had been selected as a panel chairman for one of the sessions of the 1962 Packaging and Transportation Symposium. There will be very little discussion of precautionary labeling at this symposium.

(b) Next Meeting of the Committee.

It was agreed that the next meeting of the Committee would take place in Pittsburgh, Pennsylvania on Tuesday and Wednesday, September 26-27, or Wednesday and Thursday, September 27-28. The Secretary will contact the Pittsburgh hotels and will notify the Committee of the exact time and place of the meeting.


James D. Kittelton, Secretary
Labels and Precautionary
Information Committee

Minutes Subject to Approval
June 13, 1961

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C O P Y

T R O N A

APPENDIX A

AMERICAN POTASH & CHEMICAL CORPORATION
Ninety-Nine Park Avenue, New York 16, New York

June 12, 1961

Mr. Ralph G. Troup
J. T. Baker Chemical Company
Phillipsburg, New Jersey

Dear Ralph:

L.A.P.I. MANUAL REVISION LABELS

At the last L.A.P.I. meeting, I agreed to check on several questions regarding the two labels covering Zirconium metal powder and Pentaborane respectively.

Re Zirconium Metal Powder (Pg.94), I advised you under date of June 8 that you are to insert as the second precautionary statement the following: "DO NOT ATTEMPT TO LOOSEN OR REMOVE COMPACTED MATERIAL FROM CONTAINER WITH ANY TOOL." A. B. Chandler of Foote Mineral accepted this more aesthetic phraseology although they will continue to use the forceful wording which I proposed at the last meeting. I have a note it was agreed this statement was of enough importance to be put in caps or upper case.

Re Pentaborane (Pg.78), the absence of "Keep from contact with air" on this label was questioned. I have reviewed my files and consulted again with O.M.'s Research and Engineering. We had weighed the pros and cons and decided we are labeling pure material. The pure material is not pyrophoric in air, although contaminated pentaborane may be so, hence, it is left out.

I believe you have already noted among the other minor corrections, that the printer missed several words in the contact statement which should read: "In case of contact, immediately wash skin with soap and plenty of water. Flush eyes with plenty of water for at least 15 minutes and get medical attention. Remove and wash clothing before re-use."

This should complete these two labels.

Kindest regards.

Very truly yours,

Nelson E. Wendt

cc: C.L. French
E.J. Hogan
J.D. Kittelton
H.H. McIntyre
F.D. Sparre
R.F. Philpitt
C.B. Shaffer