T & D - 1464

Manufacturing Chemists Association

Minutes of Meeting

of the

TRANSPORTATION AND DISTRIBUTION COMMITTEE

...nt Country Club
...ngton, Delaware

May 15-16, 1973

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Chairman C. H. Vescelius presided and convened the meeting at 8:30 a.m. both ...ings. The following members and guests were present:

...ERS:

. Vescelius, Chairman	Olin Corporation
Canham, Vice Chairman	Standard Oil Company of California
. Watts, Secretary	MCA Staff
. Clark	MCA Staff
E. Allen	E. I. du Pont de Nemours & Co.
Arnold	Ethyl Corporation
C. Brittain	Koppers Company, Inc.
J. Clemens	Dow Chemical, U. S. A.
A. Coffenberg	Stauffer Chemical Company
S. Dewey	Kerr-McGee Corporation
R. Frost, Jr.	UNIROYAL Inc.
H. Goodwin	Exxon Chemical Company USA
J. Haan	International Minerals & Chemical Corporation
L. Hammond	PPG Industries, Inc.
(for D. G. Griffin)	
E. Isbell, Jr.	FMC Corporation
(for R. H. Foltz)	
L. C. Kerr	Freeport Minerals Company
F. Lodge, Jr.	ICI America, Inc.
E. Long	Velsicol Chemical Corporation
P. McFall	Gulf Oil Co. - U. S.
D. Midkiff	Tennessee Eastman Company
F. Nearing	U. S. Steel Corporation
K. Prouty	The Richardson Company
(for W. J. Mueller)	
M. Ribe	Vulcan Materials Company
B. Rose	Witco Chemical Corporation
J. Russell	American Cyanamid Company
(for H. R. Large)	
B. Sondey	GAF Corporation
C. Stewart	Monsanto Company
J. Sullivan	Shell Oil Company
E. Tenis	Rexene Polymers Company
E. Webb	Pennwalt Corporation

T. A. Wilker	Union Carbide Corporation
J. K. Williams	Allied Chemical Corporation

GUESTS:

L. E. Anderson	Amoco Chemicals Corporation
W. Blackiston	ARCO Chemical Company
D. A. Boyd	E. I. du Pont de Nemours & Co.
F. J. Costanzo	U. S. Industrial Chemicals Compan
L. L. Dintiman	Union Carbide Corporation
R. L. Dunn	The Harshaw Chemical Company
W. C. Frieling	Vulcan Materials Company
D. E. Furnas	Phillips Petroleum Company
R. J. Gauch	GAF Corporation
J. S. Graham	PPG Industries,Inc.
T. H. Herrick	Jefferson Chemical Company
R. V. Kavanagh	Continental Oil Company
J. J. Kerr	Air Products & Chemicals Inc.
E. R. Killeen	Arizona Chemical Company
R. Moroose	UNIROYAL Inc.
J. W. Newman	ARCO Chemical Company
A. W. Pinkerton	Upjohn Company
C. D. Roberts	Hooker Chemical Corporation
J. C. Rowland, Jr.	Union Carbide Corporation
W. R. Rubbert	E. I. du Pont de Nemours & Co.
E. Sigeti	Allied Chemical Corporation
J. S. Sorice	Olin Corporation
A. J. Stevens	ICI America
R. G. Thorn	Allied Chemical Corporation
L. S. Truslow	Union Carbide Corporation
D. F. Twomey	Celanese Corporation
G. L. Wilson, Jr.	Rohm & Haas Company
J. E. Zullinger, Jr.	E. I. du Pont de Nemours & Co.

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NOTE: Subjects were not necessarily discussed in the order in which they appear in these minutes.

1. APPROVAL OF MINUTES

The minutes of the February 6-7, 1973 meeting of the Committee were unanimously approved as distributed.

2. LEGISLATIVE SUBCOMMITTEE - H. F. Nearing, Chairman

The Legislative Subcommittee met on March 15, 1973 and Mr. Nearing reported on their activities as follows:

(a) Northeast Railroad Crisis

The Subcommittee considered the following bills and position statements on the subject:

(i) H. R. 5385 - The Surface Transportation Act of 1973
(ii) S. 1031 - Essential Rail Service Act of 1973
(iii) ICC Ex Parte 293
(iv) DOT Study on Northeastern Railroad Problem

Copies of the above mentioned documents are available from the Secretary upon request.

As a result of this review, the Legislative Subcommittee drafted a proposed MCA position statement which was reviewed by the Steering Subcommittee May 14, 1973 and presented to membership by Mr. Nearing on May 15 for acceptance. A copy of this proposal was distributed at the meeting and it is attached to these minutes as Exhibit A.

The MCA legislative proposal dealing with the Northeast Rail Crisis consisted of six sections:

(1) Labor - railroad personnel
(2) Northeast railroad system
(3) Rail abandonment
(4) Financing
(5) Deficit from passenger operations
(6) Rates

Each section will be reviewed separately.

(1) Labor - Railroad Personnel

ON MOTION, duly made and seconded, it was

VOTED: that MCA should accept the section dealing with labor-railroad personnel as presented.

(2) Northeast Railroad System

The original draft indicated that proponents of the 1 percent tax favored it because it provided for funding of the bankrupt lines without affecting the Federal budget and further that chemical shippers generally found it objectionable.

ON MOTION, duly made and seconded, it was

VOTED: to amend the above section by adding "chemical shippers generally find it objectionable and believe other alternatives should first be exhausted," and by deleting reference to the Federal budget.

The original draft also provided that any solution to the Northeast rail crisis should develop one or more new rail systems.

The following motion, duly made and seconded, failed adoption to change the wording to read, "any solution to the Northeast rail crisis should develop more than one system ..."

The draft further proposed that in the development of one or more new systems from the bankrupt lines that "this system must be under private enterprise and maintain the integrity of the N&W and the B&O/C&O systems..."

ON MOTION, duly made and seconded, it was

VOTED: to change the above sentence by the addition of the underlined words "this system must be under private enterprise and <u>must</u> maintain the viability and integrity of the N&W and the B&O/C&O systems now competing with bankrupt roads in the Northeast sector <u>and maintain competition in the Northeast sector</u>."

and, also

ON MOTION, duly made and seconded, it was

VOTED: to accept the complete section on the Northeast railroad system.

(3) <u>Rail Abandonment</u>

The legislative proposal indicated that MCA should favor expeditious administrative procedures enabling railroads to eliminate unnecessary operating and capital costs and suggested the ICC institute formal proceedings only if the adverse effect on the public outweighed the benefit to the carrier. This section received cosmetic changes to make it more readable but the sense of the proposal was unchanged.

MCA objected to an arbitrary abandonment standard of one million ton miles per mile of track and indicated a provision that revenues should equal or exceed variable costs would be sufficient.

ON MOTION, duly made and seconded, it was

VOTED: to specify that variable costs as used above should be "as defined by current ICC formulas."

The rail abandonment section also carried a provision that in case of bankruptcy proceedings, with particular reference to the Northeast rail crisis, streamlining of abandonment proceedings would be favored.

Some Committee members thought MCA should support streamlined abandonment procedures only when revenues earned by the lines in question did not equal or exceed variable costs. After discussion and

ON MOTION, duly made and seconded, it was

VOTED: to modify the section on streamlined abandonment proceeding by the addition of the following underlined words: "Additionally <u>in</u> the case of transportation bankruptcy proceedings with particular reference to the Northeast rail crisis, <u>when revenues do not equal or exceed variable costs</u>, further simplification of provisions to facilitate abandonment is favored."

Under the rail abandonment section it was also agreed that MCA should support suspension of operation if adequate notice was provided to arrange alternate or substitute service and also that MCA would favor provisions for quick and easy abandonment where duplicate, parallel or alternate service was available. Several Committee members objected to the provisions that abandonment would be favored in the event of duplicate or parallel service. The main concern seemed to be that they did not favor abandonment merely because of duplicate or parallel lines. After considerable discussion,

ON MOTION, duly made and seconded, it was

VOTED: that this section should be amended by striking out the words "duplicate" and "parallel" and specifying that the alternate service would have to be <u>rail</u>. The second provision under MCA supporting easy abandonment will now read as follows: "It was agreed that MCA should ... (2) favor provisions for quick and easy abandonment where alternate rail service is available."

and also,

ON MOTION, duly made and seconded, it was

VOTED: that the entire section on rail abandonment be accepted as amended.

(4) <u>Financing</u>

Under the financing section of the MCA legislative proposal, the MCA proposed that government financial support for the restructured system to handle freight traffic should be limited to guaranteed loans, except for a small seed fund. This is essentially the DOT proposal. The proposal went on to list the methods of financing in order of preference as follows:

(a) private investment capital funding guaranteed by the Federal government (Union Pacific Proposal);

(b) private investment capital to operate a "CORE" system under private "ownership" as outlined in the DOT report;

(c) the Federal funding of Northeast facilities with the Federal government covering losses during the reorganization. A tax would be imposed on all modes so as to generate about $500 million per year to cover this cost. (ICC Proposal); and

(d) Federal funding to obtain certain tracks and a government guarantee of the ventures of a rail track owning corporation. (Hartke/Adams).

It was suggested by several Committee members that we sho[uld] not place ourselves in the inflexible position of setting forth an order of preference of the proposed financing plans, particularly in view of the fact that the DOT report had not been put into legislative form at our meeting and the fact that other legislative proposals seemed to be pending. Therefore,

ON MOTION, duly made and seconded, it was

VOTED: to amend the introductory paragraph of the financing section deleting the phrase "in order of preference" and changing the sentence to read: "Methods of financing, which have been proposed are as follows: (See the four alternatives presented thus far).

The financing section also ended with a sentence reading as follows: "the financial provisions of the ICC and Hartke/Adams proposals are not considered desirable." In view of the Committee's previous action to avoid a rigid choice of preference, it was suggested that we would not want to flatly state that these two bills were considered undesirable. Therefore,

ON MOTION, duly made and seconded, it was

VOTED: that the sentence regarding the ICC and Hartke/Adams proposals should be deleted and a sentence reading essentially as follows should be put in its place: "The MCA favors financial proposals which rely on the private sector of the business community as opposed to direct government financing or subsidization."

and also,

ON MOTION, duly made and seconded, it was

VOTED: to accept the entire financing section as revised.

(5) Deficit from Passenger Operations

The MCA position on the subject of deficit from passenger operations as set forth by the Legislative Subcommittee was that all passenger operations, including commuter service, should be separated from freight operations and the contracting authority (such as AMTRAK) should assume the full financial responsibility and, where practical, full operating responsibility. It was further recommended that AMTRAK assume full financial and operational responsibility for passenger traffic in the Northeast corridor, and

ON MOTION, duly made and seconded, it was

VOTED: that the deficit from passenger operation's section should be accepted as proposed.

(6) Rates

Under the rates section it was pointed out that present ICC regulations prescribed minimum rates as being those not below a minimum standard of reasonableness. The Legislative Subcommittee recommended that MCA support the proposal made by the Federal Railroad Administration calling for rates not below the variable cost level. In the proposal the term out-of-pocket cost level was used.

ON MOTION, duly made and seconded, it was

VOTED: that everywhere in the MCA position statement that the term out-of-pocket appeared it should be replaced with the word variable.

This reflects the change in terminology by the ICC in referring to this cost level as being a variable cost level and no longer termed the out-of-pocket cost level. Following this amendment,

ON MOTION, duly made and seconded, it was

VOTED: to accept the rate section as amended.

This completed discussion of the Northeast rail crisis. The entire Legislative Subcommittee recommendation as amended is reproduced as Exhibit A, copy attached.

(b) H. R. 7200 - A Bill to Amend Railroad Retirement Act of 1937

H.R. 7200 would amend the Railroad Retirement Act of 1937 and the Interstate Commerce Act in order to improve benefits to railroad employees and streamline procedures pertaining to certain rate adjustments for carrier subject to Part 1 of the Interstate Commerce Act.

H.R. 7200 was introduced April 18, 1973 by Mr. Harley Staggers, and referred to the Committee on Interstate and Foreign Commerce. Very quick hearings were held and the bill came out of Committee containing a Title II provision that would allow automatic rate increases for rail carriers for any negotiated labor cost increases. This amendment would be made by adding a new paragraph to Section 15(a) of the Interstate Commerce Act providing that... "notwithstanding any other provision of the law, the Commission shall within 30 days of the filing of the verified petition by any carrier or group of carriers subject to this part permit the establishment of increases in the general level of both interstate and intrastate rates of said carrier or carriers in the amount approximating that needed to offset increases in expenses theretofore experienced or demonstratively certain to occur commencing on or before the effective date of the increased rates as a result of the enactment of the Railroad Retirement Amendment of 1973, or as a result of any future increases in taxes under the Railroad Retirement Act or any negotiated labor cost increases and comparable increased cost for other employees."

Title II was stricken from this bill and the bill was then sent to the Senate for further action. In discussion on this bill, it was pointed out that the wording in Title II was objectionable because it does not protect the public against unreasonableness; it provides no incentive for railroad management to negotiate agressively with labor unions and it makes no allowance for any productivity increases that may be gained along with a increase in the labor costs. Following discussion on this subject,

ON MOTION, duly made and seconded, it was

VOTED: that MCA should adopt a policy of opposing H.R. 7200, Title II and any other similar legislation that may be proposed in the future.

This action ended the report of the Legislative Subcommittee.

3. PHYSICAL DISTRIBUTION SUBCOMMITTEE - D. G. Griffin, Chairman

Mr. V. H. Goodwin presided in Mr. Griffin's absence.

(a) Task Group on Physical Distribution Management and Data Processing - F. E. Allen, Chairman

"Distribution Management Systems to Support Good Distribution Management," was presented to the T & D Committee February 6-7, 1973, and will be presented to the Transportation Equipment Committee at its September meeting. The program covers asset cost management as well as the support systems for asset cost management and a review of the profiles of some rail control systems currently in operation. In addition, an example of a transportation control system that has been adopted by one of the major rail carriers (Missouri-Pacific System) is described. It is pointed out that one of the effects of a good control system is improved car efficiencey and substantial car savings.

(b) Task Group on Environment and Safety - V. H. Goodwin, Chairman

CMA 044125

Mr. Goodwin was recently appointed chairman of this task group replacing Mr. W. R. Ross. The task group agreed that an effort should be made to survey various carriers to determine their knowledge, approach and concern relative to the areas of chemical wastes' disposal and chemical emission controls. The only carrier organization having an active interest in this area seems to be the NTTC and their programs have previously been reported to the Committee. Each task group member has been assigned specific organizations to contact and a report will be made at the next meeting. It was also decided that some effort should be made to determine what each MCA member company is doing in this area. As an initial step, the task group is developing a questionnaire to be distributed to MCA member companies. It is tentatively planned that the task group on Environment and Safety will make a full-scale presentation on environmental concepts for distribution at the February 1974 meeting of the T & D Committee.

The task group has also checked with some terminal operators regarding the effects that various environmental laws are having on their operations. It was reported that many local regulations are in existence which are much more restrictive than the Federal standards. These local regulations have a severe economic impact on terminaling operations and it is suggested that member companies check closely with their terminal operators regarding this area of activity.

(c) <u>Task Group on Distribution Performance Standards</u> - J. C. Rowland, Chairman

The task group has retitled their study, "Task Group on Distribution Performance Standards," and have redirected their efforts toward developing industry-wide performance standards criteria and trends which can be used as a basis for measurement by individual companies. A review of the performance standards' definitions proposed at the previous meeting indicated difficulty in obtaining uniform interpretation by individual companies. The group decided on a trial survey within the task group itself in order to test the effectiveness of their definitions. The task group hopes to complete this in time for the August 15 meeting of the Subcommittee at which point the study may be expanded to include all Physical Distribution Subcommittee members. It is expected that a report on the performance standards will be made at the September meeting of the T & D Committee.

(d) <u>Report on the Status of AAR Car Reporting Programs</u> - H. F. Nearing

Mr. Nearing reported that the National Car Information System (TRAIN II) has suffered as a result of a shuffle in priorities at the AAR . For example, the AAR has deferred further work on the car location message (CLM) type of reporting and the railroads are silent as to when a centralized car location message program will be available.

Mr. Nearing further reported that many of the railroads offering CLM service on an individual basis are switching to a shipper "dial-in system" of reporting. This transfers the cost of securing tracing information from the carrier to the shipper. It is suggested that individual companies might wish to contact their railroad representative and object to this practice.

(e) <u>WXYZ Reporting</u>

Mr. Nearing reported that as a result of the railroads' restructuring of their priorities, they have indefinitely postponed the initiation of WXYZ reporting. At present, two railroads offer WXYZ reporting with a third scheduled to commence this activity in 1973 and a fourth in 1974. WXYZ reporting refers to the following information being given under the symbol heading:

W - Available empty

X - Empty pull

Y - Constructive placement

Z - Actual placement

One of the Committee members indicated that he estimates "placement" and "pull" information by extrapolating from the lastest passing reports or from the CLM reports, however, this type of "estimating" is usually not acceptable to customers for detention billings.

It was suggested by the Committee that Bill Hammond take this subject back to Don Griffin with the request that the Physical Distribution Subcommittee assign a task group to work with the NIT League EDP Committee or take whatever additional action appropriate. A list of the NIT League car location committee members will be forwarded to you under separate cover.

4. <u>RAILS - RATES, RULES AND COMPENSATION</u> - Grant Arnold, Chairman

(a) <u>Ad Hoc Subcommittee on Tank Car Compensation Rules</u> - L. S. Truslow

(1) <u>ICC Docket 35537 - Updating BCVs</u>

This case involves our complaint against the railroads wherein we asked for an updating of the BCV values used for the purpose of assigning tank cars to allowance categories, an increase from $25,000 to $40,000 in the original value of a car, and an updating of the per car operating costs. Evidence and arguments were submitted last year and on January 12, 1973 we requested expedited handling. The ICC advises this is being actively considered. If a decision is rendered directly by Division 2 as we requested, we expect all appeal procedures to be finished by this Fall. An additional three months will be required if a report is first rendered by an administrative judge.

(2) <u>ICC Docket 35363 and 35419 - Handling Empty Privately Owned Cars</u>

The above cases concern the ten cent per mile charge for moving private equipment on back-to-back empty moves. An Examiner's report ordering the charges cancelled was issued in May 1972 and exceptions and replies were filed several months later. The ICC advises the Division 2 order should be issued by the end of May.

A company, not an MCA member, has written to the Mexican Government Railways System in Washington asking that tank car mileage allowances within Me be increased from their present 5-1/2 cents loaded and 5-1/2 cents empty per mile level to the same levels paid by U. S. railroads. Justification was merely to update the Mexican levels to the U. S. level. This was reported as information only for those MCA members who might wish to take individual acti

ICC 35801 is a complaint filed February 23, 1973 by U.S. Steel against certain railroads concerning charges billed in accordance with Items 125 and 260 of Mileage Tariff 7B for movement of new empty tank and covered hopper cars from point of manufacture to point of first loading. It is U.S. Steel's contention that these charges were either inapplicable or unjust and unreasonable. Filing dates have not been set and anyone interested in intervening can do so on an individual basis.

ICC 35808 is a complaint filed February 28, 1973 by U.S. Steel against certain railroads concerning charges billed according to Item 125-A, Paragraph B-6, and Item 260-A, Paragraph 3(b) of Mileage Tariff 7B for movement of empty tank and covered hopper cars immediately preceded by an empty movement. U.S. Steel contends these charges were either inapplicable or unjust and unreasonable. Filing dated have not been set and intervention on an individual basis is still possible.

UFC Docket 327, Subject 42 is a proposal to amend the classification rates on railway cars moving on their own wheels under Items 81300-B to 81410-B to include general increases through Ex Parte 281-B. Confusion exists as to the determination of correct charges and General American Transportation Corporation proposed a clarifying alternate. A hearing was held May 8 and we have been advised that the subject was "recommended as modified." It was originally proposed to amend the classification items containing rates for moving railway cars on their own wheels to include general increases through Ex Parte 281-B. This proposal would have resulted in eight columns of rates to be used according to the specifically defined territories involved in the movement. It is our understanding that what has been recommended will result in four columns of rates. This will not only cut down on the confusion but will also obtain some savings.

UFC Docket 327, Subject 43, is a proposal to apply ex parte increases to Item 81411-A which established minimum charges for railway cars moving on their own wheels under Items 81300-B to 81410-B. Certain parties contended that minimum charges are established to cover costs incurred and should be increased only when circumstances change and not by unrelated formula increases. Hearing was held May 8 and we have received word that this subject has been held over until the June 18 meeting.

(b) Report on the Ad Hoc Study Group for Tank Car Compensation - R. Canham

Mr. Canham reported that the study group headed by Mr. Foltz is in the process of preparing a questionnaire to be circulated to tank car owners and lessees regarding a cost of ownership and movement study. He indicated this format would probably be completed in the next couple of months and should be available for review at our Fall meeting in Montreal, Canada. There was some concern voiced at the meeting that statistical data generated by this ad hoc group might interfere with Dick Hardy's statistical information compiled for Docket 35537. Following discussion on the subject, the sense of the discussion on this subject seemed to be that since the ad hoc group did not formally represent MCA, any conclusions they reached would not hurt our position in 35537.

(c) Trailer-on-Flat-Car Service (ICC 35345) - G. J. Mason, Chairman

It was reported that an order favorable to the MCA position would probably be filed on May 14 or 15. The essence of this order will be to remove the mixing rule. Exceptions do not appear to be of concern to MCA members.

(d) Ad Hoc Subcommittee on ICC Ex Partes 270 and 271 - T. C. Stewart, Chairman

(1) Regarding ICC Ex Parte 270 and 270, Sub 2 there was no change to be reported on the status of these items.

(2) Ex Parte 271 - Net Investment-Railroad Rate Base Rate of Return

Interested parties submitted reply statements on April 2. Most of the replies simply expanded on previous statements and the shipper's viewpoint was handled by the "consortium" headed by General Mills Inc. This was covered in the February 6 report to the Committee. The railroads submitted four generalized statements as follows:

Cyril M. Bill	-	Discussed effect of accelerated depreciation on railroad rate of return and argued that type of depreciation, in no way, reduced rate investment or railroads need for greater rate of return.
Robert S. Hamilton	-	Discussed impact of future investments. Indicated he would like to have 10 percent return of investment on future investment money.
Frank H. Coyne	-	Generally rebutted the General Mills' consortium statement.
Layton F. Smith	-	Denied ill-effect of excessive dividends.

(e) Ad Hoc Subcommittee on AAR Demurrage Docket 314 - A. M. Ribe, Chairman

Mr. Ribe reported that a meeting was held in St. Louis, on May 10, 1973 between private car owners and lessors and the AAR Committee on Demurrage and Storage. The meeting was conducted on an informal and open discussion basis, and it was agreed that no transcript would be taken nor any detailed minutes would be prepared. Instead a memorandum summarizing the points of discussion would be prepared and circulated to those in attendance. This meeting was held as a result of considerable shipper protest to the proposed $1 per day storage charge as outlined in Docket 314. The railroads pointed out the following problem areas for the consideration of the shippers:

(1) The automatic return of cars from unloading points to the point of last load. Cars frequently arrive completely unanticipated and the shipper at that point does not want them and gives no instructions as to what to do with them. Further, the railroad has difficulty locating the proper party who can furnish a disposition and when disposition is finally received it is confirmed that the cars were not wanted at this point in the first place. They are frequently ordered for loading out point on another road so that the road having held them in storage may never receive a revenue haul.

(2) Cars released to the owner by a lessee and held awaiting a new lease by the lessor.

(3) Cars ordered to repair or cleaning facilities in excess of the facilities' capacity which must be held in railroad yards awaiting scheduling for repair or cleaning.

(4) Cars held an unduly long length of time at the shipping origin of the lessor or owner awaiting orders for placement.

Possible solutions were advanced for each of these problem areas, although it was agreed that all suggestions made were strictly tentative on the part of individual parties attending the meeting and were not to be considered as official company positions. Regarding problem number one, that of the return routing of empty cars, it was suggested that consideration be given to requiring a positive disposition at the point of unloading. If no disposition were received by the destination agent within five days after release by the consignee, storage charges would be assessed, for example at $1 per day per car, subject to a minimum of $5. In discussing problem two, namely cars released by owner or lessee and held awaiting a new lease by the lessor, it was felt that consideration should be given to dividing the fleet into two classes: (1) would be the active, which are owned or under lease of one year or longer to an active shipper and (2) is the inactive fleet which is all cars not in the active fleet. It was thought that by adding an additional symbol such as the letter "A" to UMLER format the cars in the active fleet could be readily identified and separate storage and demurrage rules would apply to these cars. When a car in the active fleet was released by the shipper back to its owner, the owner (lessor) would be given perhaps 90 days in order to lease the car to another active shipper. At the end of this time period the car would go into the inactive fleet and be covered by a separate set of rules.

It was suggested by some shippers and agreed to by some carrier representatives that the carriers should consider amending Tariff 7 to permit one free movement of such empty cars to the owner's storage tracks following a loaded move and one free movement from the owner's storage tracks to the next point of loading.

In discussing problem number 3, cars ordered to repair or cleaning facilities in excess of the facilities' capacity, it was agreed that this presents an undue burden on the railroads and perhaps a possible solution might be a 14-day free time allowed outside a cleaning or repair facility, after which time the car would go on regular demurrage. Another suggestion was to provide each facility with a rating similar to a coal mine rating with cars in excess, thereof, accruing a storage charge.

Regarding problem number four, which involves cars being held unduly long lengths of time at shipper origin awaiting orders for placement, two approaches were suggested. One was to simply leave the rule as it is so far as active cars are concerned and when being held at or enroute to a shipper, owner or lessee loading point. Another was to provide active cars with free time (perhaps 60 days) on an average agreement basis. Shippers and car owners both felt that the demurrage tariff should be left as is, and any changes in the rules and regulations affecting empty private cars should be placed in Tariff 7.

In conclusion the two chairmen agreed they would jointly prepare and distribute a memorandum outlining the problem areas identified in this discussion. After this has been done a small task force is to be selected by each of the two committees. The task force will then try to formulate the suggestions into specific proposals which will be considered by the entire committee. Following this joint meeting, the proposals could then be placed on a public docket for the review of other interested parties.

The Secretary pointed out that under our bylaws MCA could not participate in an ad hoc group such as that convened above, for the purpose of conducting joint shipper/railroad negotiations. If a research effort is desirable or the group requested an opinion from the chemical industry, MCA could participate in developing this information.

(f) UCC Docket 319, Subject 23 - Rule 35 Amendments - Grant Arnold

It was reported that revised Rule 35 would become effective June 27, 1973 in Supplement 7 to UFC 11. This supplement was issued May 16 and contained changes in Sections 2,3,5 and 6.

(g) ICC Dockets 35831 and 35835 - Rail-Water Interchange Agreement Steamship Operators Intermodal Committee (SOIC)

ICC Docket 35831 is a petition for investigation filed by the Drug and Toilet Preparation Traffic Conference and Docket 35835 is a similar case filed by SOIC. Docket 35835 is known as American Export Line Inc., et al, versus the Alabama Great Southern Railroad, et al. These dockets have been consolidated and involve the cancellation of container interchange agreements between the steamship operators and the railroads in the South. Prior to the cancellation of these agreements by the railroads, containers would move free of charge inland for loading or back to the port after unloading. In defense of the action taken by the railroads in this case, it was pointed out that a lot of cross-hauling of empty containers takes place. For example, a container owned by steamship company "A" may be transported empty from the pier to an inland city for loading at the same time that a container owned by steamship company "B" were being transported empty from the same inland city back to the pier. The reason for this inefficiency is that steamship companies do not provide for free interchange of equipment between themselves. Sometimes this is due to differing physical characteristics of containers and other times apparently is due to other considerations. However, most of those present did not think that the solution to this problem rested with cancellation of the agreements and thereby increasing the transportation costs of MCA member companies, and

ON MOTION, duly made and seconded, it was

VOTED: that MCA should join as an intervenor in the above proceedings as our interests dictates.

CMA 044131

(h) ICC Ex Parte 73 and MC-1 - Extension of Credit Period

In late 1971, ATA sought to reopen Ex Parte MC-1 providing for more rigid requirements on shippers in the payment of freight bills within the statutory credit period. In March 1973, the ICC issued a notice of proposed rule making and order in these dockets. Briefly, the Commission proposed a thorough study of present credit regulations. Some of the suggested alternatives were: (1) extending the credit period; (2) providing penalties for late payment and (3) establish a list of late payers who would not be granted credit by the carriers.

Committee members commented overwhelmingly in favor of participation in this proceeding by MCA.

ON MOTION, duly made and seconded, it was

VOTED: that MCA act as an intervenor in this proceeding and press for an extended credit period.

In regard to this subject the Committee was reminded that Bob Weber developed an excellent analysis on freight payment regulations in May 1970 which was distributed with the minutes of the Spring 1970 meeting.

(i) TRRA Switching Charges for Movement of Empty Private Cars

It was reported that the TRRA proposal was cancelled and the Alton and Southern Railroad has renewed the TRRA's efforts in this regard. A discussion of this subject indicated that members felt the railroads would continue to harass shippers with this sort of rule change and,

ON MOTION, duly made and seconded, it was

VOTED: that MCA petition the ICC for an investigation and suspension of the Alton and Southern proposal.

In regard to this docket, Mr. Rose advised that his company had collected claims for car rental only, on cars that had not been moved by carriers within 24 hours.

(j) Freezing of Mileage Allowances

It was reported that a West Coast rate bureau and the Trans-Continental Freight Bureau had issued proposals freezing mileage allowances paid on cars of private ownership at the presently prevailing rate levels, regardless of any future rail increases or future inflationary influences on the cost of car ownership. Following a prolonged discussion and many amended motions,

ON MOTION, duly made and seconded, it was

VOTED: that MCA should adopt the following resolution dealing with this subject.

Resolution. MCA is opposed to the practice of railroads by unilateral action in freight rate dockets or through carrier-initiated freight dockets of attempts to freeze mileage compensation on private cars to existing levels or different levels than those published in the applicable mileage allowance tariffs.

(k) Ex Parte 295 - General Freight Rate Increase

Considerable discussion was generated regarding this subject and the consensus of opinion seemed to be concern over (1) failure by railroads to fully document their revenue needs in the past several general rate increases, and (2) revenue needs of certain railroads, particularly the weaker roads in the East, to avoid bankruptcy and/or liquidation. Some Committee members questioned if differential rate increases in the various geographic areas of the country should be recommended. However, this item was not brought to vote and was not included in the position statement in this matter. (1)

ON MOTION, duly made and seconded, it was

VOTED: that "MCA urge the ICC to consider rail ex parte requests for increased freight rates only when fully supported by the evidentiary showing contained in Appendix B of Ex Parte 281, served October 4, 1972."

This motion was carreid by a majority of 18 to 11 with Mr. Coffenberg asking to be recorded as voting in the negative.

On further consideration the consensus of opinion in the Committee indicated that on a matter of this importance, it would be preferable to seek a motion which would carry by a greater margin and truly represent a consensus opinion on the part of Committee members. Further discussion indicated that some members voted in opposition to the above motion on the basis that it was too restrictive while others thought it was not restrictive enough. It was generally agreed that the MCA position should recognize the total revenue needs of the railroads and the fact that the railroads operate as a system and are of vital importance to our industry. With the guidance given in the above three areas of concern, an ad hoc group was formed to draft a consensus opinion. This group consisted of Grant Arnold, chairman, with Messrs. Haan, Stewart, Sigeti, Dewey, Coffenberg, Midkiff and Graham. Upon further recommendation from the task group and discussion,

ON MOTION, duly made and seconded, it was

VOTED: that MCA should adopt the following position regarding Ex Parte 295:

> If the ICC finds the carriers are in need of additional revenues we will not oppose them provided, (1) we will rely on the ICC to make certain the carriers validate their costs; (2) in granting any rate increase, the ICC should consider productivity increases; (3) whatever increase is granted, the ICC should direct that the greater portion of the additional revenue should go to the carriers with the greatest financial need.

Each of the above three provisions was voted separately with numbers 1 and 2 passing with no opposition. Position number 3 was not unanimous and Messrs. Griffin, Long and Nearing requested to be recorded in opposition. A motion on the recommended MCA position in its entirety including the preamble passed,with Messrs. Nearing Long and Griffin recorded in opposition.

The statement, due at the Commission on Monday, May 21, was filed by Mr. W. J. Driver, President of MCA.

(1) Transport of Hazardous Commodities - Canadian Transport Commission - R. Canham

Mr. Canham reported on a paper prepared for the Canadian Transport Commission by a Task Force on Dangerous Commodities chaired by Mr. G. E. Piche. Other members of the task force were Messrs. W. G. McGregor, M. R. Smith and J. A. Forbes. The report is entitled, Recommendation No. WG-1-3, and was submitted to the Canadian Transport Commission in Montreal on March 7, 1973.

The report singled out liquefied petroleum gas as the greatest volume movement of a hazardous commodity in Canada. It further advised that since it is not practicable to design a completely ruptured/punctured proof tank car that operational restrictions should be imposed to ensure that the tank cars produced by the current state-of-the-art will not be subjected to an accident environment that would cause them to rupture. The group recognized their recommendations would result in higher cost to both the carrier and shipper and in some cases result in a significant deterioration in the level of service. They also advise the additional cost to the shipper should be considered the shipper's proportionate share of the "no-fault hazard insurance" in the transportation of his commodities. The report also listed sixteen "highly dangerous" commodities which the railroads move in bulk and did a risk hazard analysis of these commodities. The task force recognized the inter-relationship between the structural design of the car and the operational aspects of the railroad and advised that if a type of car could be developed with more adequate safeguards they would consider modifying their operational recommendations commensurate with the added safeguards designed into the car structure.

(1) Principles Upon Which Recommendations were Based:

The task force adopted eight principles upon which their recommendations were based:

(a) The proposed regulations should not be less restrictive than those presently in effect. (They did not feel that the present regulations went far enough in protecting the public and the train crews);

(b) Major railway accidents cannot be completely eliminated;

(c) The severity of damage to cars and contents in railway accidents is largely related to the speed of movement;

(d) The severity of the results or aftereffects of an accident are largely related to the quantity and type of dangerous commodities involved. Therefore, a reduction in the degree of severity may be accomplished by limiting the number of cars of certain commodities that can be included in any one train movement, or limiting the number of such cars that can be coupled together in a block;

(e) The regular carload movement of dangerous commodities should continue to move in normal freight train service. The alternative to this would be withholding of cars containing dangerous commodities from regular freight train service and operating special "dangerous commodity trains";

(f) A provision must be made to allow the movement of dangerous commodities in mass quantities such as unit trains and trainloads or near-trainload lots. However, the mass movement of extremely dangerous commodities such as LPG, poison gas, flammable poison gas and explosives will have to be made at much reduced speed in order to decrease the possibility of a major catastrophy developing from a train accident;

(g) Due to the urgency of this matter, it is the group's objective to design a workable and effective plan that could quickly be put into effect with as little disruption of the present regulation as possible; and

(h) The proposed regulation must be complete, effective and easily understood.

The group then proposed that certain reclassification of hazardous materials be made. These proposed changes are as follows:

(a) Hydrogen sulfide be placarded as a flammable poison gas;

(b) Anhydrous ammonia, hydrochloric gas, chlorine, sulfur dioxide, (and such other commodities as may be technically designated by the CTC as having similar lethal properties) be placarded as poison gas;

(c) That chemicals such as LPG vinyl chloride, vinyl acetate and similar commodities as designated by CTC be classified into a new placarding category called "DANGEROUS A." The new "DANGEROUS A" category was designed to contain highly hazardous materials not included in the explosives, poison gas or flammable poison gas classification. The report also recommended that train speed be limited when the consist contained carloads, placarded as explosives, poison gas, flammable poison gas, or "DANGEROUS A", except that normal freight train speeds might be observed when certain other limitations were in effect such as blocking, separation, etc. A speed limitation of 30 miles per hour was agreed upon by the members of the working group as a result of their collective railway line operating experience. However, the recommendation pointed out that a train speed in excess of 30 miles per hour might still be considered safe if the train consist did not contain a total of more than 30 cars placarded in the above four categories.

They further suggested that no more than 15 cars of any one hazard category be blocked together and that each block of such cars be separated by at least five cars containing non-hazardous material.

The report goes on to recognize that in those localities where a considerable number of placarded cars are handled, the recommendation will have a considerable disruptive effect on the present normal yard operation, and that such recommendations will result in considerable train delay and extra expense. A further comment stated that the "added operating cost, in addition to the compensation for the risk of moving highly dangerous commodities, must be borne by the shippers." The task force (being made up of railroad men) concluded that the present inspection procedures of all freight trains are adequate and they could see no need to place more emphasis on inspection of trains containing hazardous commodities. Regarding unit trains, the report recommends that unit trains of dangerous commodities be restricted to a 30 mile per hour countrywide speed irregardless of population density. This report was presented for the information of T & D Committee members. It is understood that its contents would be discussed at a meeting in Ottawa, on May 23, 1973 and that the AAR had knowledge of the report and would discuss it at their Operating Committee meeting on May 17, 1973. It is felt that the U.S. railroads are generally opposed to the severe restrictions on their operations contained in the Canadian report. The report was assigned to Mr. Lodge's Hazardous Materials Group for further action.

HIGHWAY - RATES AND RULES - H. R. Large, Chairman

In Mr. Large's absence, Mr. J. J. Russell reported on the following:

(a) NCB Docket 725, Subject 61 - Protective Equipment

Mr. Clark presented a statement in opposition to the proposed rule on behalf of MCA before the National Classification Board on September 20, 1972. The Board ruled in favor of the MCA position and denied the proposed rule change on the basis that this subject seemed capable of amiable resolvement between shippers and carriers. The carrier proponent has appealed this decision and the subject is docketed for hearing at the June 6 Board meeting.

ON MOTION, duly made and seconded, it was

VOTED: that MCA appear at the June 6 hearing to again oppose this proposal. Arrangements have been mad for the Secretary to do this.

(b) Ad Hoc Subcommittee on Emergency Transportation Authorities - C. E. Webb, Chairman

In a letter dated April 10, the ICC responded through the Bureau of Operations to the joint NTTC/MCA proposal regarding the waving of emergency temporary authority in the event of accidents. In their reply, the ICC advised that in the event of an emergency the carrier should immediately attempt to secure an ETA from the nearest regional office by telephone or telegraph, but in the event he could not reach the regional office he should complete the emergency transportation and then advise the Commission at the earliest opportunity.

(c) Bulk Carriers' Charges for Dumping Contaminated Wastes into Municipal Sewer Treatment Facilities

George L. Wilson advised that a tank truck operator in Louisville, Kentucky had requested an additional $25 per load on some commodities and $50 per load on others as an additional charge to be levied against the shipper to compensate the carrier for his added expense in dumping contaminated waste material into the local sewage treatment facility. The subject raised two questions, (1) Should the individual shipper have to pay this cost? (2) Does the shipper have a continuing responsibility in the disposition of the cleaning affluent resulting from his product? No motion was made regarding this subject but it was suggested that the subject be added to the minutes so that member companies would be alerted to watch for similar cases in other geographic areas.

(d) Bulk Carriers' Conference Docket 280-5-R - Furnishing of Tank Vehicles and Accessory Equipment - J. J. Russell

The subject docket proposes to amend Bulk Carriers' Conference Rules Tariff No. 5 by the addition of a rule stating that carriers will supply to shippers equipment that is reasonably clean for loading. Reasonably clean being defined as meaning the tank vehicle and accessorial equipment shall be reasonably free from the remains of the prior commodity loaded therein. (Reasonably free not being defined).

The proposed rule provided for the inspection of the tank vehicle and accessory equipment by the consignor prior to loading at which point he could reject said vehicle or accessorial equipment if found unsuitable for loading. If the consignor did not feel the equipment was suitable for loading but desired to clean it at his own expense the carrier would allow 30 minutes free time in which to complete the cleaning operation. The third paragraph of the proposed rule provided that once the consignor had accepted "the vehicle," the carrier would no longer be responsible for any contamination of products loaded therein unless such contamination was caused directly by failure of the carrier's vehicle. (Accepted is not defined in the proposal).

The above subject was discussed and,

ON MOTION, duly made and seconded, it was

VOTED: that MCA should go on record against the proposed rule change.

Subsequent to the meeting, a letter was written to the General Manager of the Bulk Carriers' Conference setting forth MCA's objection to the proposed rule change, and the Secretary appeared at the hearing on behalf of MCA to voice an objection.

A final disposition of the proposed rule change has not been received form the Bulk Carriers' Conference.

(e) Ex Parte 55, Subject 8 - Elimination of Gateway Restrictions for Household Goods' Carriers

Subsequent to the meeting it has been learned that comments on this subject are due July 6, 1973. It was agreed that Mr. Truslow and Mr. Russell would keep in touch regarding this proposal and make recommendations if appropriate, to the T & D Committee. The Committee did not vote to take any action on this matter at the meeting but suggested that individual member companies might want to consider the impact of this proposal.

WATER - RULES AND REGULATIONS - T. C. Stewart

(a) Radio/Telephone Communications Between Movable Bridges and Vessels

On March 2, 1973, MCA President W. J. Driver wrote to Adm. Bender, Commandant, U. S. Coast Guard, expressing the view that MCA favored the installation of radio/telephone communications between vessels and movable bridges across inland waterways. Mr. Driver requested information on the active and pending programs of the U. S. Coast Guard relating to the communications' problem with movable bridges and the time frame projected for their implementation. Several other areas of safety concern were mentioned and the letter concluded with a request for a meeting between Coast Guard staff personnel, waterway operators, and MCA representatives. Adm. Bender responded on March 26, 1973 to the effect that the Coast Guard is pursuing a general policy of encouraging voluntary installation of radio/telephones stations on movable bridges, and thus far 38 bridges in the Mississippi River Basin have been so equipped. His letter also stated that the Coast Guard was unable to establish that audible signals were not the most positive and effective means of communication between vessels and movable bridges. The letter requested information concerning any particular bridge where it was felt the use of sound or visual signals would not be effective. The waterway operators had previously furnished the Coast Guard with such a list of bridges, however, a further listing by the MCA may be beneficial. This matter was reported for information only and it was further suggested that the Subcommittee at their next meeting would discuss a future course of action and seek further guidance from the T & D Committee.

(b) Florida Wins Supreme Court Test of Constitutionality of State's Oil Pollution Law

It was reported in the April 21 issue of the American Waterways Association Weekly Letter that the United States Supreme Court in a unanimous decision upheld the 1970 Florida Oil Spill and Pollution Prevention Act on the grounds that the states have the right to define and enforce water pollution control legislation which is stricter than laws passed by Congress. This case was initiated by the American Waterways Operators against Mr. Askew, Governor of Florida.

At question was the constitutionality of the Florida water pollution laws. The State of Florida passed a statute which among other things imposed absolute legal and unlimited financial liability for any damage incurred by the state or private persons as a result of oil spills in the state territorial waters from any terminal facility or from any vessel destined for or leaving such facility. The owner or operator of each terminal or vessel would be required to establish evidence of financial responsibility by insurance or surety bond.

In addition, the Florida law allowed private citizens to initiate action as well as the state. In contrast, the Federal Water Quality Improvement Act of 1970 limited a ship owner's liability for accidental discharges to $100 per gross ton or $14 million, whichever is less, and owners of terminal facilities to a liability of $8 million. In upholding the Florida law, the Supreme Court said that a state has the right to design and enforce water pollution control legislation which is stricter than laws passed by the Federal Government. On subsequent review of this subject it was learned that AWO has filed an appeal with the Supreme Court regarding this decision. This is a rather unusual course of action and at the moment no one is certain as to what the outcome of this appeal will be.

(c) S. 2770 - Federal Inland Waterways Pollution Act of 1972

It was reported that October 18, 1974 is the effective date of the provision of the above Act which will subject violators to a maximum liability of $5 million. The Secretary advised the Committee that AWO has formed an ad hoc committee to work in conjunction with their Legislative Subcommittee in drafting a recommended amendment to this bill. As soon as this amendment is received in draft form it will be distributed to the membership.

In regard to the above bill, the Environmental Protection Agency (EPA) is publishing their list of hazardous substances which is due in a couple of months.

7. HAZARDOUS MATERIALS REGULATIONS - G. A. Coffenberg

(a) HM-57 - Classification of Corrosive Liquids

It was reported that the effective date of HM-57 has been moved back to January 1, 1974.

(b) HM-8 - Hazardous Materials Labeling

Mr.Coffenberg advised the effective date of HM-8 would be January 1975, domestically and January 1, 1974, internationally.

(c) Texas H. B. 332 - Transportation of Hazardous Materials

There was a brief discussion of a proposed Texas law which would require shippers to supply detailed product cards with each shipment of hazardous material. It was suggested that individual member companies operating in Texas could take appropriate action to deal with this at the local level.

(d) First National Symposium on Hazardous Materials Transportation

DOT scheduled their first National Symposium on Hazardous Materials at the Washington Hilton Hotel, May 30-June 1, 1973. This program would feature speakers from Government as well as industry on various subjects of interest to shippers of hazardous materials. It was pointed out that Mr. Driver was to be the chairman of the May 30 luncheon and that Mr. Harry McNeeley, President of Tennessee Eastman, would be the keynote speaker.

(e) HM-102 and HM-103 - Environmental Impact Statements

The Federal Register recently republished HM-102 and HM-103 because of an AAR challenge regarding the failure of DOT to file Environmental Impact Statements on the above dockets.

It was suggested that MCA should file a response regarding the desirability of Environment Impact Statements on safety rule changes.

(f) Controller General's Report on Hazardous Materials Movements

The Controller General's Office of the General Accounting Office has published a report calling for additional inspection and enforcement of shipments of hazardous materials. The report concludes that (1) OHM has a lack of data on which to base rule changes; (2) that OHM has inadequate inspection procedures; and (3) that OHM has poor enforcement procedures and needs more criminal proceedings in order to focus the attention of industry on this problem area.

(g) DOT Regulations on Poisons

In a joint MCA/NACA effort the Secretary, on May 7 wrote to all Transportation Contacts regarding a revision to the DOT poisonous regulations. These regulations establish new definitions for extremely and highly toxic materials. The Secretary clarified that in completing the questionnaire, the number of pounds shipped would be sufficient information. Also that if the person replying had already replied to the NACA it would only be necessary to check the appropriate block on the form and return it to MCA.

TRANSPORTATION POLICY STUDY - F. E. Allen

Mr. Allen reported that in an effort to improve procedures for handling Committee recommendations, the following should be observed:

(a) Members should define motions in detail and give specific information and reports on all items discussed; and

(b) On matters requiring action by the MCA Board of Directors, the Secretary should inform members of the sense of the recommendation being submitted to the Board for consideration.

It was recognized that this might not always be possible on items going to the Board for approval in order to meet filing deadlines. However, the Secretary will attempt to communicate all position statements with the Committee for review prior to their filing.

9. SUBJECTS HANDLED BY THE SECRETARY

The Secretary reported that MCA supported a request to continue printing Mileage Tariff 6 in the computer format.

(a) New Jersey Tank Truck Carriers Pollution Control Committee

The New Jersey Tank Truck Carriers was scheduled to hold a meeting on May 29, 1973 at the New Jersey Motor Truck Association Headquarters in East Brunswick, New Jersey. This meeting would discuss the following three subjects: (1) bottom unloading and vapor recovery at loading site; (2) residual in tank wagon after unloading at destination; and (3) dealing with obnoxious odors in the internal cleaning of tank wagons.

Subsequent to the meeting it was confirmed that Mr. Phillip Pontius of Union Carbide would attend the meeting and would report to MCA.

(b) Personnel

The Committee accepted the resignation of Mr. Richard Canham as vice chairman and upon nomination from the Nominating Committee,

ON MOTION, duly made and seconded, it was

VOTED: to install Mr. G. A. Coffenberg, Stauffer Chemical, as vice chairman of the Committee.

and also,

ON MOTION, duly made and seconded, it was

VOTED: to elect Mr. E. F. Lodge, Jr. of ICI America as a member of the Steering Subcommittee to replace the position vacated by Mr. Coffenberg.

There being no further subjects to bring before the Committee, the meeting was adjourned.

S. L. Watts, Secretary

Minutes Subject to Approval
June 28, 1973
SLW:bal

cc: R. L. Blewitt
Lloyd Symington

EXHIBIT A

MCA LEGISLATIVE PROPOSAL

I. Labor-Railroad Personnel

On September 13, 1972, Mr. W. J. Driver, President of the Manufacturing Chemists Association, wrote to the Chairman of the Committee on Labor and Public Welfare stating, "There is deep concern within the chemical industry about the inadequacy of existing laws to deal effectively with work stoppages in transportation." He stated at that time, "Any new legislation, we believe, should be broad enough in scope to include virtually all transport labor disputes and should not be limited to so-called 'National emergency' situations."

Mr. Driver indicated in his letter that a "partial" shutdown is a total shutdown for those industries served by that "partial" portion of the system. He went on to further state that "The key element of any new legislation should be to provide the President with an arsenal of weapons, including the power to make a final decision. Lack of finality is the basic flaw in the present procedures, and any new statutory approach should remedy that defect. The provisions of the new law should permit continuing efforts toward the resolution of the dispute and ensure that none of the options would be foreclosed until the dispute has been resolved." MCA still maintains this position in relation to labor-railroad problems recognizing that results of the rail crisis situation could require the need for labor protection. We further believe that provisions for protecting displaced railroad labor, where necessary, should be provided by the U. S. Government and funded by a department of the Government, such as the Department of Labor (DOL).

II. Northeast Railroad System

We restate our position that there is a need for a viable railroad industry system under private enterprise. Government ownership poses many problems and creates inequities for healthy railroads competing in the same geographical area. Although there appears to be some support for the 1 percent tax on regulated rail, motor and water carrier charges over a ten-year period, chemical shippers generally find it objectionable and believe other alternatives should first be exhausted.

Any solution to the Northeast rail crisis should develop one or more systems tailored to meet the needs of commerce (today and for the future) including those of the chemical industry. This system must be under private enterprise and must maintain the viability of the Norfolk and Western and B&O/C&O systems now competing with bankrupt roads in the Northeast sector.

The systems developed should be operated by profit-making organizations. Passenger operations, including commuter services, should be separate from freight operations. Contracting authorities (such as AMTRAK) should assume full financial responsibility and, where practical, full operating responsibility for passenger services.

There are several plans under consideration for government, quasi-government and private operation of the railroad system(s) for the Northeast. The MCA believes that the responsibility for defining the "CORE" system should not be exclusively the choice of government but should provide for at least <u>equal</u> participation from the private sector, including the shipping public.

III. Rail Abandonment

In the past year, MCA expressed the view that rail carriers should be permitted to reduce or eliminate unnecessary operating and capital costs through expeditious administrative procedures for abandonment of non-productive facilities. In this connection, MCA supported establishing a 45-day notice period and suggested the ICC institute formal proceedings, only if the adverse effect on the public outweighs the benefits to the carriers, to determine if the proposed abandonment is contrary to public convenience and necessity. MCA also objected to the establishment of one million ton miles per mile of track, or any legislative criteria, as a standard to measure the profitability of a railroad line. The provision that revenues equal or exceed variable costs as defined by current ICC formulas is considered sufficient.

Additionally, in the case of transportation bankruptcy proceedings with particular reference to the Northeast rail crisis, where revenues do not equal or exceed variable cost further simplification of provisions to facilitate abandonment is favored. MCA (1) supports suspension of operation if adequate notice is provided to allow the shipper to arrange for alternate or substitute service; and (2) favors provisions for quick and easy abandonment where alternate rail service is available.

Cost sharing of acquisition of segments of bankrupt railroad systems by other railroads are considered to be forms of alternate service.

If liquidation is proposed, as is the case with the Penn-Central and Lehigh Valley, it is the MCA position of no objection -- provided adequate notice is given to arrange alternate or substitute service in order to maintain essential service.

IV. Financing

Aside from any provisions the government may adopt to take care of the passenger operation, government financial support for the restructured system to handle freight should be limited to guaranteeing loans, except for a small seed fund. Methods of financing, which have been proposed, are as follows:

(a) Private investment capital funding, federally guaranteed as to repayment for railroad restructuring and rehabilitation throughout the entire Northeast region. (Union Pacific Proposal).

(b) Private investment capital to operate a "CORE" system under "Private" ownership as outlined in the DOT report.

(c) Federal funding of Northeast facilities investment program covering losses of bankrupt carriers during reorganization. A tax would be imposed on regulated rail, motor and water carrier charges to generate about $500 million per year to cover costs. (ICC proposal).

(d) Federal funding to obtain tracks of bankrupt roads and have Northeast lines meet minimum track standards - also government guarantee of debentures of rail track owning corporation. (Hartke/Adams).

The MCA favors financial proposals which rely on the private sector of the business community as opposed to Government financing or subsidization.

V. Deficit From Passenger Operations

The MCA position is that passenger operations, including commuter services, should be separate from freight operations. Contracting authorities (such as AMTRAK) should assume full financial responsibility and, where practical, full operating responsibility for passenger services.

Further it is recommended that AMTRAK assume full financial and operational responsibility for the passenger traffic in the Northeast (Boston/Washington) corridor.

VI. Rates

Under existing law, the ICC has jurisdiction to prescribe minimum rates - not below minimum standards of reasonableness. It is understood that legislation to be proposed by the Federal Railroad Administration calls for rates not below the variable cost level. MCA agrees that rates should not be below the variable cost level, but this is also the present requirement of the ICC and there is no prohibition or restriction to prevent carriers from complying and we believe railroad management should proceed in this direction.