

MANUFACTURING CHEMISTS ASSOCIATION
MINUTES OF MEETING
LEGAL ADVISORY COMMITTEE
Conference Room of Wilmer, Cutler & Pickering
1666 K Street, N. W., Washington, D. C.
October 7, 1976

PRESENT

Karl R. Barnickol (for Mr. Putzell)
Robert H. Bidwell
Leon C. Holt, Jr.
Iver C. Macdougall
Arloe W. Mayne
Bernard J. McNamee
William E. McIntyre (for Mr. Welch)
Donald P. Walsh

Monsanto Company
Exxon Chemical Company
Air Products and Chemicals, Inc.
Stauffer Chemical Company
Ashland Oil, Inc.
Hooker Chemicals & Plastics Corp.
E. I. du Pont de Nemours & Company
Shell Oil Company

Bruce M. Barackman
Daniel Marcus, Outside Counsel
John H. Pickering, Outside Counsel

Manufacturing Chemists Association
Wilmer, Cutler & Pickering
Wilmer, Cutler & Pickering

ABSENT

Edwin J. Putzell, Chairman
(alternate designated)
James I. Wyer, Vice Chairman

Monsanto Company
American Cyanamid Company

Keith W. Blinn
Brian D. Forrow
James H. Hanes
Peter H. Kaskell
E. J. Mooney
Russell J. Parsons
S. Maynard Turk
Charles E. Welch (alternate designated)

Continental Oil Company
Allied Chemical Corporation
Dow Chemical U. S. A.
Olin Corporation
Nalco Chemical Company
Borg-Warner Corporation
Hercules Incorporated
E. I. du Pont de Nemours & Company

GUESTS

Ray W. Brown
William H. Butterbaugh
E. E. Christofano
Albert C. Clark
Milton Freifeld
Terence J. Gallagher
Charles J. O'Connor
J. M. Pardee
Joseph T. Seawell
Howard S. Vogel
John C. Zercher

Mobay Chemical Company
Manufacturing Chemists Association
Hercules Incorporated
Manufacturing Chemists Association
Manufacturing Chemists Association
Pfizer, Inc.
Stauffer Chemical Company
Eastman Kodak Company
Manufacturing Chemists Association
Texaco, Inc.
Manufacturing Chemists Association

The meeting convened at 12:30 p.m. with Mr. Macdougall presiding as acting chairman.

1. Minutes of the September 2, 1976 Meeting The minutes were approved as distributed.

2. Discussion of MCA Safety Publications Program with Reference to Legal Memorandum on Same Mr. Pardee, chairman MCA's Safety and Fire Protection Committee, as spokesman for the three technical committees primarily concerned with MCA's Chemical Safety Data Sheets (Safety Sheets) commented on the legal recommendations in order:

(1) More frequent review and update is desirable. This will require additional professional staff and a greater commitment on the part of member companies;

(2) Systematic and continuing monitoring of scientific and epidemiological literature also desirable; but will require the additional support noted in No. (1) above;

(3) Reference to significant new scientific reports of possible safety problems of chemicals would be worthwhile, but utilization of safety sheets to disseminate such information thus transforming them into "newsletters" is objectionable -- some other method should be employed;

(4) Notification, to individual holders of safety publications, of significant changes is impractical -- other procedures such as use of notes in MCA News or advertisements in appropriate trade journals should be employed;

(5) Agree generally with use of outside experts as necessary in reviewing MCA publications -- this assumes flexibility as to when it will be done and whom will be utilized;

(6) Agree with elimination of certain "safety" statements and the incorporation of language to negate any implication of warranty and to emphasize that the document represents a consensus, a code of good practice, not a "standard";

(7) Concur with increase in insurance coverage; and

(8) Concur in use of counsel in implementing safety publication program.

Mr. O'Connor, chairman MCA's Labels and Precautionary Information Committee, while not agreeing there is a problem in keeping track

of safety data sheets issued, concurred in general with Mr. Pardee's comments and emphasized that it is in the practice, not the writing of documents, wherein safety lies. Mr. Christofano, chairman MCA's Occupational Health Committee, also concurring, noted that a Safety Sheet was never intended to be an exhaustive review of the health effects of a chemical -- simply a guide to good practice in handling.

In the discussion which followed, the consensus was that if the safety publication program is to be continued effectively there must be additional support for professional staff and an increased commitment by member companies. The need for additional funding in the amount of \$250,000 was noted and such cost was considered acceptable in the light of the importance of the program. It was felt that if MCA's Executive Committee approves the continuation of the program, the sense of the legal recommendations and the technical considerations could be accommodated in properly formulated guidelines and it was recommended that an ad hoc committee be established consisting of a member from each of the concerned technical committees and the Legal Advisory Committee to prepare guidelines for minimum standards of safety practice in writing Safety Sheets.

3. Legal Seminar Mr. McNamee reported on the status of the proposed LAC seminar dealing with "Corporate Compliance with OSHA and EPA Regulations." He described the plans of MCA's Chemical Regulations Advisory Committee (CRAC) to put on a series of seminars throughout the country and raised the question as to the desirability of combining the activities of the two committees to avoid duplication. Mr. McNamee was authorized to discuss the matter further with the CRAC and at his discretion either work out a satisfactory merger of the programs or continue with plans for a separate LAC seminar.

4. Reports by Staff Counsel and Outside Counsel Mr. Barackman reported that an increase from \$10 to \$20 million in insurance coverage in connection with MCA's safety publication program had been approved by the Board of Directors; that MCA's Executive Committee had approved the recommendation for an inside vice president and general counsel to be considered by the Board at its next meeting; and that outside counsel and staff had worked out a system to be followed in notifying those who have received past copies of MCA publications which subsequently have been withdrawn or revised for a significant reason.

Mr. Marcus reported on "Financial Assistance to Participants in Federal Agency Proceedings" and distributed a memorandum on this subject prepared for the committee. The secretary was requested to supply same to those who were not present.

5. Additional Matters Mr. Macdougall passed out materials relating to proposals for a "science court" and asked the secretary to distribute this to those absent.

Outside counsel was requested to inquire into the Department of Commerce inter-agency task force on product liability and report at the next meeting of the LAC.

The meeting adjourned at 2:40 p.m.



Bruce M. Barackman
Secretary
Legal Advisory Committee

Minutes subject to approval
October 18, 1976
BMB:jb