MANUFACTURING CHEMISTS ASSOCIATION
MINUTES OF MEETING
LEGAL ADVISORY COMMITTEE
Conference Room, Wilmer, Cutler & Pickering
1666 K Street, N. W., Washington, D. C.
February 2, 1978

PRESENT

James I. Wyer, Chairman	American Cyanamid Company
Leon C. Holt, Jr., Vice Chairman	Air Products and Chemicals, Inc.
Ernest K. Bean (alternate)	The BFGoodrich Company
Ray W. Brown	Mobay Chemical Company
Richard W. Duesenberg	Monsanto Company
Thomas Kent (alternate)	Allied Chemical Corporation
William E. McIntyre (alternate)	E. I. du Pont de Nemours & Company
Bernard J. McNamee	Hooker Chemicals & Plastics Corp.
E. J. Mooney	Nalco Chemical Company
John A. Stichnoth	Union Carbide Corporation
S. Maynard Turk	Hercules Incorporated
Donald P. Walsh	Shell Oil Company
John A. Wilson	Diamond Shamrock Corporation
Bruce M. Barackman, Secretary	Manufacturing Chemists Association
Edmund B. Frost	Manufacturing Chemists Association
Andrew Macdonald	Wilmer, Cutler & Pickering
John H. Pickering	Wilmer, Cutler & Pickering

ABSENT

Robert H. Bidwell	Exxon Chemical Company
Gerald M. Doppelt	Chevron Chemical Company
Brian D. Forrow (alternate designated)	Allied Chemical Corporation
James H. Hanes	Dow Chemical USA
Richard A. Heuerman (alternate designated)	The BFGoodrich Company
Peter H. Kaskell	Olin Corporation
Charles E. Welch (alternate designated)	E. I. du Pont de Nemours & Company

GUESTS

Howard D. Fashbaugh	Virginia Chemicals Inc.
George S. Flint	Tenneco Chemicals, Inc.
Terence J. Gallagher	Pfizer Inc.
R. Price Howard	Phillips Petroleum Company
I. C. Macdougall	Stauffer Chemical Company
Gordon Mayberry	Conoco Chemicals
Hugh M. Robinson	Manufacturing Chemists Association
John T. Subak	Rohm and Haas Company

The meeting convened at 12:32 p.m. with chairman Wyer presiding.

1. Minutes of the January 5, 1977 LAC Meeting The minutes were approved as distributed. Mr. Wyer reported that in connection with item 3 on product liability, he has requested comments from the Tax Policy Committee on the tax incentive bill drafted by Marsh & McLennan.

2. Product Liability Following discussion and slight modification, a statement of principles together with a background explanation and proposed implementation strategy were approved for consideration by the MCA Special Committee on Product Liability for inclusion in the report that committee will make to the Board.

3. Safety Publications Program Mr. Barackman described MCA's ongoing efforts to obtain insurance. Mr. Pickering advised there appeared to be little chance of officers, directors, or member company liability, noting the possibility of individual committee members' liability under the borrowed servant doctrine.

Mr. Frost will work with Mr. Wyer and a couple of others to be named from the LAC to prepare recommended actions to be taken in the event that adequate insurance coverage at an acceptable premium cannot be obtained.

4. OSHA Rulemaking Copies ot Mr. Driver's letter of January 27, 1978, to the Board concerning a proposed standard on Chemical Substances Identification were distributed. Mr. Frost said an MCA interdisciplinary group will prepare alternative proposals after which he plans to consult with outside counsel, Mr. Mayers, regarding legal and advocacy aspects. The Committee supported this approach.

5. Reports by Counsel

5.1 Mr. Pickering

- Reported that Local Counsel in the Arcell case has filed on behalf of MCA a motion to dismiss for repeated failure of plaintiffs to supply experts reports as ordered by the court; plans proceed with motion for summary judgment.

- Distributed copies of a press release from OSHA announcing a new permanent standard on benzene noting that it was the same as the ETS except for an added "action level" provision.

5.2 Mr. Frost

- Identified three issues relating to TSCA raised at a recent meeting of the Senior Advisors to CRAC -- two involving confidentiality claims regarding section 8 inventory submissions and one concerning whether a whole category of substances can be given a priority under section 4. He will refer these issues to the Legal Affairs Subcommittee of CRAC.

- Discussed a letter from Mr. Davis of OMB which raises the question as to whether certain government agencies, such as EPA and OSHA, should have enforcement and appellate litigation authority independent from the Justice Department. Mr. Frost will arrange a meeting with Mr. Davis for a representative group of general counsels to present their views.

- Referred to a letter from Mr. McNamee relating to the question of including, on the recommended label for a chemical, a reference to the MCA Safety Data Sheet when one exists. Mr. Frost will advise further on this matter.

5.3 Mr. Barackman reported MCA's Executive Committee

- Approved Local Counsel pursuing settlement feelers in the Arcell case and proceeding with a settlement at a cost to MCA not to exceed $80,000.

- Approved contracting with State and Federal Associates Inc. for a $3,000 reporting service for state legislation on product liability.

6. Other Matters Mr. Frost will advise whether MCA should participate as amicus in litigation opposing OSHA's ETS on acrylonitrile.

The Committee concurred in the recommendation of CRAC's Legal Affairs Subcommittee that MCA should not litigate EPA's guidelines concerning section 8(e) of TSCA.

7. Next Meeting The next meeting of the Legal Advisory Committee will be a luncheon meeting at 12:00 noon, at the law offices

of Wilmer, Cutler & Pickering, 1666 K Street, N. W., Washington, D. C., March 2, 1978.

Bruce M. Barackman
Secretary
Legal Advisory Committee

Minutes subject to approval
February 15, 1978
BMB:jb

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