

*Legal Advisory Committee
Manufacturing Chemists Assoc.
LAC 9-1*

MANUFACTURING CHEMISTS ASSOCIATION
MINUTES OF MEETING
LEGAL ADVISORY COMMITTEE
Conference Room of Wilmer, Cutler & Pickering
1666 K Street, N.W., Washington D. C.
March 5, 1976

PRESENT

Brian D. Forrow, Chairman
Edwin J. Putzell, Jr., Vice Chairman
(last part of meeting)

R. C. Burroughs
Frank R. Lyon, Jr.
I. C. Macdougall
Arloe W. Mayne
Bernard J. McNamee
Neil R. Mitchell
Russell J. Parsons
Charles E. Welch

Bruce M. Barackman, Secretary
Gerald P. Kavanaugh
(alternate for Mr. Maddock)
Daniel K. Mayers

Allied Chemical Corporation
Monsanto Company

Olin Corporation
Union Carbide Corporation
Stauffer Chemical Company
Ashland Oil, Inc.
Hooker Chemicals & Plastics Corp.
Velsicol Chemical Corporation
Borg-Warner Corporation
E. I du Pont de Nemours & Company

Manufacturing Chemists Association
Hercules Incorporated

Wilmer, Cutler & Pickering

ABSENT

Albert A. Eustis
James H. Hanes
Robert A. Longman
Charles S. Maddock (alternate designated)
E. J. Mooney
Donald P. Walsh
James I. Wyer

W. R. Grace & Co.
Dow Chemical U.S.A.
Celanese Corporation
Hercules Incorporated
Nalco Chemical Company
Shell Oil Company
American Cyanamid Company

GUESTS

Robert H. Bidwell
William J. Driver
Cornelius Sorapure

Exxon Chemical Company
Manufacturing Chemists Association
Allied Chemical Company

The meeting convened at 10:02 a.m. with Brian Forrow, chairman, presiding.

1. Minutes of the February 5, 1976 Meeting After correction to show Mr. Mayne present, the minutes were approved as distributed.

2. Report on Activities of Special Task Group on Toxic Substances Legislation In the absence of Mr. Hanes, the activities of the group and legislative developments were discussed by Mr. Driver. The Administration favors a McCollister bill as amended by OMB, but such a bill is not before the committee in either the Senate or House. EPA is the designated Administration spokesman. Mr. Train has publicly stated EPA will accept any legislation. Congressman McCollister introduced his bill H. R. 12336 on March 4, 1976. The Administration is said to be considering a veto if Congress passes a Tunney-type bill. The House Commerce Committee is expected to report a bill by March 29.

Individual MCA board members will be requested to visit the House Commerce Committee members. A major MCA effort also involves organizing visits to these same members by small companies. Public Relations is preparing an ad for consideration of the task group for publication in selected newspapers at an appropriate time. The importance of LAC members emphasizing the need for support of MCA's efforts was stressed. The Secretary was requested to distribute to the LAC members a copy of Mr. Hanavan's side-by-side comparison of lead bills and other pertinent materials as developed.

3. Revised MCA Antitrust Guide The draft of March 1 was approved for finalization by Mr. Hammond after March 20, the deadline date for receipt of comments for consideration in the finished work product which will be delivered to the Secretary for reproduction. It is planned to distribute this to the MCA Executive Committee in April followed by a brief presentation to the Board in May.

4. EPA Heptachlor/Chlordane Suspension; EPA "Principles" of Carcinogenicity

4.1 MCA Intervention in Appeal of EPA Decision Suspending Heptachlor/Chlordane It was the consensus that the issues involving official notice and burden of proof are not presented in a context broad enough to justify MCA intervention.

4.2 Preparation of Legal Memorandum on Official Notice re EPA's "Principles" of Carcinogenicity It was agreed that the Allied brief in the Mirex case, circulated to MCA's Legal Advisory Committee by Mr. Forrow's memorandum of November 21, 1975, would serve the purpose of a legal memorandum on the question of official notice. In the event of an adverse decision by the Administrator, MCA may wish to consider intervening (re issue of official notice) on judicial review.

5. Recommendation to Retain Inside Vice President and General Counsel Mr. Forrow's February 26 memorandum and the recommendation to

retain inside vice president and general counsel with appropriate supporting staff were discussed at length. He will incorporate various modifications suggested in a revised version to be sent to MCA's Executive Committee with copies to members of the Legal Advisory Committee. Mr. Mayers suggested that the revision reflect the fact that the recommendation is enthusiastically supported by Wilmer, Cutler & Pickering. The recommendation to retain an inside vice president and general counsel with appropriate supporting staff was unanimously approved.

6. Additional Matters

6.1 Political Action Committees A general discussion ensued concerning pending congressional consideration of amendments to the federal election laws, directed to the manner in which such amendments might affect the current status of political action committees set up to conform to advisory opinions of the Federal Election Commission.

6.2 Antitrust Legislation Status of bills was reviewed. Parens Patriae (H.R. 8532) has been granted a rule by the House Rules Committee. This is a reversal of the committee's action in tabling the measure in November, 1975. Antitrust Omnibus (S. 1284) is expected to be voted on by Senate Judiciary Committee no later than April 6.

6.3 MCA Safety Data Sheets and LAPI Manual Following review of the current status of the Arcell case, the potential liability of MCA for its various publications was discussed. Prior to considering the legal question further, it was suggested that information be sought from the chairmen of the Safety and Fire Protection Committee (Safety Data Sheets) and the Labels and Precautionary Information Committee (LAPI manual) relating to the practices and procedures involved in the preparation and distribution of these MCA publications.

The meeting adjourned at 12:10 p.m.



Bruce M. Barackman
Secretary

Minutes subject to approval
March 15, 1976
BMB:jb