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L-449

Manufacturing Chemists' Association, Inc.

(FOUNDED 1872)
1825 Connecticut Avenue, N. W.
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PLAINTIFF'S EXHIBIT CMA-168

MINUTES OF
SPECIAL LAPI COMMITTEE MEETING
MCA CONFERENCE ROOM
WASHINGTON, D.C.

AUGUST 22, 1961

The meeting came to order at 9:30 A.M. on Tuesday, August 22, 1961.

PRESENT

Edward J. Hogan, Chairman	Allied Chemical Corporation
Ralph G. Troup, Vice Chairman	J. T. Baker Chemical Company
R. H. Dewey	Commercial Solvents Corporation
Fred Ebersole	General Aniline & Film Corporation
Chester L. French	Mallinckrodt Chemical Works
Joseph T. Gormally	Pennsalt Chemicals Corporation
James Hammond	Humble Oil & Refining Company
Sanford J. Hill (A.M. Only)	E. I. du Pont de Nemours & Co., Inc.
Edward J. Masek	Diamond Alkali Company
Harry H. McIntyre	The Dow Chemical Company
Thomas W. Nale, M.D.	Union Carbide Corporation
John F. Osterritter, M.D.	Celanese Corporation of America
Richard F. Philpitt	Olin Mathieson Chemical Corporation
Boyd Shaffer	American Cyanamid Company
F. D. Sparre	E. I. du Pont de Nemours & Co., Inc.
N. G. White	Shell Chemical Company
J. D. Kittelton, Secretary	Manufacturing Chemists' Association, Inc.

MCA GUESTS

Frank H. Carman
General J. E. Hull
James F. King

ABSENT

James T. Fuess	Eastman Organic Chemicals Dept., Distillation Products Industries, Division of Eastman Kodak Company
George E. Merryman, Jr.	Union Carbide Canada Limited

J. A. Mooney — FMC Corporation
G. Robert Sido — Monsanto Chemical Company
N. E. Wendt — American Potash & Chemical Corporation

2.1 FEDERAL LEGISLATION

(a) Federal Hazardous Substances Labeling Act and Regulations - Need for Extension of Act.

General Hull said that he wished to give the Committee a brief review of what the MCA staff had been attempting to do concerning the proposed regulations under the Federal Hazardous Substances Labeling Act and the problems caused by the regulations. General Hull briefly described his conversation with Secretary Ribicoff concerning the need for greater industry-government co-operation. General Hull also said that he had had a number of conversations with Commissioner Larrick concerning the regulations and that he felt FDA had made an honest effort to improve the labeling regulations.

General Hull and Mr. King both emphasized that they wished to know whether the regulations are of such content that it would be feasible to abide by them within the time limit specified, namely, by February 1, 1962. It was indicated that there are two approaches that can be made concerning the regulations. One is to FDA to have the regulations amended and the other is Congress to have the enforcement provisions of the statute extended. Both FDA and Congress, however, will need to have facts before any decision is made by them.

Mr. King said that there is some risk in going back to Congress and asking for an extension since there is always the chance that other amendments might be made to the law. One Committee member inquired what would be the attitude of FDA concerning the extension bill and General Hull indicated that Commissioner Larrick had informed him that he would testify as to the facts. If the facts warrant FDA's support of the bill, this would be forthcoming.

Committee members agreed that with the final regulations in their present form every precautionary label on the market will have to be revised.

The Committee agreed to separate its discussion into the following two points:

1. Consideration of shelf stock and products in the channels of distribution.

2. Comments on the regulations.

Following this discussion,

It was moved, seconded and voted

THAT, The LAPI Committee recommends to MCA that it request an extension of the enforcement provisions of the Federal Hazardous Substances Labeling Act for a minimum period of 12 months.

This motion was passed unanimously.

In discussing the reasons for urging an extension, Mr. King said it would be very helpful if he had a few examples to cite to FDA and to Congress. Mr. Hammond mentioned lighter fluid and Dr. Nale mentioned the problem of antifreeze. Both men agreed to supply write-ups to MCA covering the problems mentioned.

Dr. Ebersole emphasized that industry was not asking for anything additional beyond what had been granted in the original statute. Industry was only asking for the time which had been used by FDA in preparing regulations. Committee members agreed that this was a very desirable approach to use and the Chairman asked Dr. Ebersole to prepare a paragraph setting out this line of reasoning.

At this point in the meeting Committee members discussed products. In addition to lighter fluid and antifreeze, which might be mentioned as specific examples, some products mentioned were floor wax, cleaners, turpentine and aerosols. It was also stated that CSMA should be very helpful in supplying examples. Brake fluids were mentioned as another example of products needing the extension.

CSMA will hold a meeting of its Precautionary Labeling Committee next week and Mr. King said that he believed it would be desirable for him to attend such a meeting. Mr. King said that as soon as he had the necessary information he would not only take it to Congress, but he would also review it with Commissioner Larrick. It was suggested that some of the data issued by CSMA especially concerning aerosol containers would be helpful.

In summary, the Chairman said that as a justification for the extension, the LAPI Committee would supply to Mr. King the following information:

1. A paragraph by Dr. Ebersole setting out the time used by FDA in issuing the regulations.

2. The time which will be necessary to gather the necessary data required by the animal tests set out in the regulations. Dr. Shaffer agreed to send this information to MCA.

3. Specific examples including lighter fluid and antifreeze.

4. Specific mention of time required to revise lithographed cans. (This would be a revision and an expansion of the argument set forth in General Hull's statement at the FDA public meeting.)

Mr. Troup illustrated the problem caused by the regulations. His illustration was with a package of cigarettes. He said that to relable existing stocks would mean that cartons would have to be torn open, each container taken out, and new labels applied to the containers. These containers would then have to be reinserted in a new carton and the carton sealed. This would mean a considerable cost to a company having to do this.

Towards the end of the meeting General Hull said that the type of statement needed is a statement by the manufacturer that it produces a certain product, that the company's warehouse is full of the product and that there is some relationship between the one year extension requested and present stocks.

It was emphasized that FDA is quite anxious to get the regulations into effect and labels revised by manufacturers as soon as possible. (One Committee member suggested that a pressure sensitive sticker applied to a lithographed can might be more apt to attract a child to the can then the container without the sticker.)

Committee members also emphasized that an extension would be very helpful with the present guaranty situation since many customers are now requesting guarantees under the Federal Hazardous Substances Labeling Act. It was also mentioned that an extension would be helpful from a product liability standpoint.

(b) Committee Position on Specific Sections of Final Regulations.

The Committee briefly discussed specific sections of

the final regulations and agreed that FDA's failure to provide for alternative test methods was especially objectionable. Dr. Nale said that he had sent to FDA some suggestions for alternative test methods. The Chairman asked that Dr. Nale send a copy of his FDA material to the Secretary for distribution to the Committee.

It was also agreed that the provision in the final regulations specifying that products are toxic in the range of 500 milligrams to 5 grams per kilogram should be modified.

The Committee also discussed the section on "Prominence and Conspicuousness" and some members were still of the opinion that an attempt should be made to remove from the front panel any precautionary information. Some members felt that the statement "Keep out of the reach of children" might appear on the front panel while other members disagreed with this. Mr. Hogan said that he believed the only thing that should appear on the front panel should be a reference to reading the precautionary labeling information on the side panel.

It was agreed that the full LAPI Committee should be asked to send to the Secretary any comments they might have concerning the regulations with special reference to any problems caused by the regulations. General Hull agreed that a similar request would be addressed to the Executive Contacts of MCA member companies. The Secretary stated that it had also been planned to send a copy of the regulations with the next issue of the General Bulletin.

James D. Kittelton

James D. Kittelton, Secretary
Labels and Precautionary
Information Committee

Minutes Subject to Approval
August 31, 1961

JDK/jmb