AGENDA
MCA Executive Committee Meeting
Tuesday, October 10, 1978 — 8:30 a. m. - 11:30 a. m.
Caucus Room, Washington Hilton, Washington, D. C.

8:30 a. m.	1.	Call to Order -- Chairman Henske
8:30 - 8:35	2.	Minutes of Last Meeting -- Secretary-Treasurer Barackman
8:35 - 9:00	3.	Financial Report -- Secretary-Treasurer Barackman
		a. Finance Committee Report -- J. E. Burrell
		b. Employee Benefit Plan -- D. J. MacLennan
9:00 - 9:30	4.	Request for Funds:
		a. Projects - Section 311 Determination of Harmful Quantities -- A. C. Clark
		b. Personnel -- R. A. Roland
9:30 - 9:45	5.	Association Activities: R. A. Roland
9:45 - 10:00		a. Briefing with Secretary of Commerce -- W. M. Stover
10:00 - 10:15		b. Hazardous Materials Spills § 311 & § 402 -- E. B. Frost -- W. M. Stover
10:15 - 10:30		c. Status Report -- Litigation & Regulatory Appeals -- E. B. Frost
10:30 - 10:45		d. Government Relations Report -- W. M. Stover
10:45 - 11:00		e. Hazardous Air Pollutants (Exhibit N) -- A. C. Clark
11:00 - 11:15		f. Ambient Air Standards/Ozone (Exhibit O) -- A. C. Clark
11:15 - 11:30	6.	New Business
	7.	Adjournment

Cokes, Coffee & Sweet Rolls (Danish)
served at 9:30 -- in place.

CMA 062101

MINUTES OF MEETING
MCA EXECUTIVE COMMITTEE
Washington Hilton, Washington, D. C.
Tuesday, October 10, 1978

1. The meeting was called to order at 8:35 a. m., by the Chairman. There were present:

John M. Henske, Chairman
J. Earl Burrell
Edward Donley
Richard J. Hughes
W. C. Krumrei
Duncan J. MacLennan
Robert A. Roland
William G. Simeral
Tom K. Smith, Jr.
Jack B. St. Clair
Alexander B. Trowbridge

*Edmund B. Frost, General Counsel
*Bruce M. Barackman, Secretary
John H. Pickering, Outside Counsel

By Invitation:

E. P. Blanchard (SOCMA), E. I. du Pont de Nemours and Company
Keith R. McKennon (for Paul F. Oreffice)
*A. C. Clark
Stephen L. Goldstein
*Gary Herrman
*H. C. Nolde
*V. H. Peterson
*J. E. Slavick
*W. M. Stover

*Present part time only

2. Minutes of September 12, 1978, Meeting The minutes of the September 12 Executive Committee meeting, as distributed, were approved. Actions taken by the Executive Committee and the Board that date are summarized in Attachment A.

3. Financial Report For the four months ended September 30, 1978, Mr. Barackman reported income approximating $3,916,000 and expenditures of

$1,615,000 with assets at the end of the month totalling $9,083,000 of which $17,000 were in cash, $9,058,000 under investment and $8,000 miscellaneous. Attachment B.

a. Finance Committee Report Mr. Burrell reported that the Finance Committee will meet on November 1 with the expectation that recommendations will be ready for consideration of the Executive Committee at its November 20 meeting. He again welcomed comments.

b. Employee Benefit Plan Mr. MacLennan, on behalf of the Pension Committee, recommended a cost-of-living pension adjustment for retirees as contained in Attachment C. During discussion it was suggested that adjustments on other than a two-year basis may be desirable in the future so as to avoid becoming committed to a fixed-schedule approach. A review of the entire employee benefit program will be undertaken by the President, with recommendations for subsequent consideration of the Executive Committee. An adjustment of four percent per year in retirement since December 1, 1976 was approved effective December 1, 1978.

4. Request for Funds

a. Projects -- Section 311 Determination of Harmful Quantities -- The "Neely Method" to define "harm" as related to "harmful quantity" determinations in connection with spills of hazardous substances under different times, condition and circumstances, as described in Attachment D, was discussed. No objection was raised to the announced plan to engage Hydroscience, Inc., at a cost not to exceed $5,000 to verify the "Neeley Method" and broaden its applicability.

b. Personnel -- After convening in executive session a report was made to the Executive Committee by Mr. Roland who recommended that the position of Vice President/Secretary-Treasurer be redefined as two separate positions; namely, Vice President/Secretary and Vice President/Treasurer. He indicated to the Executive Committee that his candidate for the Vice President/Secretary position was Mr. Bruce M. Barackman, presently serving as Acting Secretary-Treasurer; and for Vice President/Treasurer he recommended Mr. Gary C. Herrman, who was previously introduced to the Executive Committee and whose qualifications were discussed with the group. The Committee, after discussion, agreed to Mr. Roland's recommendations. Suggested changes to the MCA Bylaws to accomplish these changes will be prepared by staff and presented to the Executive Committee for appropriate action. Mr. Roland further recommended that Mr. George E. Best be retained on staff as Senior Vice President until his effective retirement date of December 1, 1978. This was approved by the Executive Committee. The Committee then continued in open session.

5. <u>Association Activities</u> -- Mr. Roland's report follows:

— Using the meeting book prepared for this session of the Executive Committee as one example of what can be done to spruce up MCA's image, he recommended that staff proceed to work up graphics and proposal for a name change for the Association to be presented to the Executive Committee. This was approved.

— Noting that MCA's lease expires in two years, and explaining the need for consideration of alternatives, he described the qualifications of Julien J. Studley, Inc., to make a thorough study and come up with various approaches designed to respond to future MCA needs regarding suitable housing for the Association. Depending on developments, work and services performed under the study could, but not necessarily, be billed to MCA in the amount of $5,000. The retention of Julien J. Studley, Inc., was approved.

— Distributing brochures to those present, Mr. Roland invited attention to the American Council on Science and Health, a non-profit organization. Serving as a voice of science on key public health issues, the council presents facts and encourages development of national public health policies based on reasonable assessment of benefit and risk. This organization, headed by Dr. Elizabeth Whelan, merits consideration. While seeking funds, the council will not accept money from corporations, but the support of foundations would be welcomed.

— The planned program for the Semiannual Meeting November 21 in New York was reviewed.

— A chemical industry image communications program, suitable for implementation by a trade association such as MCA, has been submitted in a formative stage by a member company in cooperation with other industry media experts. When polished it will be presented for consideration of the Executive Committee. --- The Executive Committee requested that a refined paper be prepared for presentation to the Board at the November meeting.

— Mr. Roland reviewed the purposes of the Special Committee on Chemical Incidents, appointment of which was approved at the September 12 meeting. --- Mr. Henske stated he was moving to obtain a top industry executive to head this committee and requested the Executive Committee to give such person authority similar to that given to Mr. Heckert when he chaired the Special Committee on Toxic Substances Legislation. --- Bestowal of such authority was approved.

— Referring to the presentation at our last Annual Meeting of The Study of American Opinion by U. S. News & World Report, Mr. Roland said they have now come to MCA and other organizations asking for company and association participation as subscribers in this program at a cost of $25,000 for an association. A brochure describing this program will be sent to Executive Committee members for their consideration.

— We have a draft paper prepared by Union Carbide on the issue of wage-price guidelines. This is being circulated by Mr. Foveaux of MCA staff to certain member companies for comment no later than October 11, preparatory to formulation of a final version. It will be mailed out with the minutes. Comments are welcomed. MCA must be well prepared to respond in advance to the impact such guidelines would have on the chemical industry.

— Mr. Roland said he would meet soon with Ron Lang of SOCMA and Ralph Harding of SPI to reach a cooperative understanding on whether the Chemical Industry Regulatory Liaison Group chaired by MCA, or a similar effort mounted by the Council of Chemical Associations would be best suited to coordinate chemical industry inter-association communications and tracking of what the governmental Interagency Regulatory Liaison Group does in the regulatory field. We feel that CIRLG is the proper vehicle. --- Mr. Roland was requested to make a status report on this matter at the November meeting.

a. Briefing with Secretary of Commerce -- Mr. Stover discussed the upcoming meeting with Commerce Secretary Kreps as described in Attachment E. This presently is scheduled for November 14 at 2:00 p. m. To be ascertained is whether meeting will be off the record, with a post-meeting press briefing.

b. Hazardous Materials Spills, Sections 311 and 402 -- Mr. Frost, noting MCA's victory in the Section 311 litigation, expanded on the substance of the negotiated proposed amendment referred to in Attachment F. Mr. Stover advised that the responsibility rests with EPA to move the amendment along. Failing enactment MCA would plan to present the Neely report (see Attachment D) to EPA and urge its approach in regulations issued in implementation of Section 311.

c. Status Report – Litigation and Regulatory Appeals -- Mr. Frost and Mr. Pickering supplemented the report, Attachment G, with an update on the benzene litigation. The Fifth Circuit has struck down OSHA's standard on the grounds that the cost of meeting the standard exceeds potential health benefits to employees.

d. Government Relations Report -- Distributed to those present was Mr. Stover's report, Attachment H. In commenting on the portion of the report dealing with the congressional OSHA oversight hearings, Mr. Nolde advised that MCA is following the House hearings closely. On the Senate side, he said the subcommittee staff commended MCA for the best and most pertinent and effective testimony presented during the three-day hearing.

e. Hazardous Air Pollutants (Exhibit N) and Ambient Air Standards (Exhibit O) were referred to briefly by Mr. Clark, who noted that the Environmental Management Committee concurs in both status reports.

f. MCA Bank Accounts -- As introduced by Mr. Roland to effect substitution of Mr. Herrman's signature for that of Mr. Best for purposes of the Association's accounts at National Savings and Trust Company, it was

> RESOLVED that Gary C. Herrman, the Treasurer of Manufacturing Chemists' Association, Inc., is authorized and instructed to deposit funds of the Organization in the account with the National Savings and Trust Company of Washington, D. C., in its name, and that said account may be drawn on only by check signed in the name of this Organization by its President, Robert A. Roland, or Treasurer, Gary C. Herrman, and countersigned by its Secretary, Bruce M. Barackman, or Manager of Staff Services, Edward J. Klecka, until further notice in writing to said National Savings and Trust Company, and the said National Savings and Trust Company shall not be required, in any case, to make inquiry respecting the application of any instrument executed in virtue of this resolution or of the proceeds therefrom, nor be under any obligation to see to the application of such instrument or proceeds.

6. New Business Mr. Blanchard gave a comprehensive report on AIHC in two parts, first describing where they stand in their activities and second what the future direction of AIHC, as an organization, would be. In regard to the latter he said SOCMA will continue staff support to AIHC for another year. Beyond that, various alternatives are available, such as a task force of SOCMA, a task force of MCA, or a separate organization. MCA should think ahead as to the form in which AIHC should continue. By no later than spring of next year (March) MCA should have a position, he urged.

Bruce M. Barackman
Secretary

Certified correct:

John M. Henske, Chairman

Attachment A

Action Taken at the September Executive Committee
and
Board of Directors Meetings

Executive Committee

1. Requested Finance Committee, working with staff, to present recommendations following an analysis of MCA's fiscal future this year and next with a projection out to four years beyond.

2. Approved $50,000 to litigate Pretreatment Standards.

3. Approved $25,000 to litigate NPDES Permits.

4. Approved $10,000 to litigate Hazardous Solid Wastes.

5. Approved $6,000 to support the ASTM committee activities relating to test methods for appraising the leaching of waste materials.

6. Approved recommendations concerning chronic effects labeling to be implemented by Mr. Roland.

7. Approved the appointment of a Special Committee on Chemical Incidents to be implemented by the Chairman of the Executive Committee.

8. Approved the establishment of a Special Committee on Tort Law Reform.

9. Approved the reproduction of certain transportation information for use by the Canadian Government.

10. Referred back to staff for further review of the legal and commercial aspects, the proposed action of the Engineering Advisory Committee regarding metrication.

11. Reviewed slate of additional director nominees for election by the Board.

Board of Directors

1. Approved the minutes of the June 7 and 8, 1978 Board meetings including the financial statement for twelve months ended May 31, 1978.

2. Approved the slate of the additional director nominees presented by the Nominating Committee.

3. Passed a motion electing Lignin Chemical Department, American Can Company, to membership in MCA.

4. Passed a motion that the Chairman of the Executive Committee implement the approved recommendations of the Government Relations Committee concerning appointment of a Special Committee on Chemical Incidents.

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Attachment B

MCA EXPENSE BUDGET FOR FISCAL YEAR 1978-79

EXPENSE	1977-78 Budget as amended	1978-79 Budget
Operations		
Salaries & Related Exp.	$1,900,000	$2,115,800
Pension & Grp. Ins.	305,000	360,500
Medical Ins. & Health	43,500	60,700
Legal Fees & Exp.	392,000	610,000
Consultant & Investmt. Serv.	30,700	44,000
Audit	4,000	5,500
Rent & Premises Exp.	145,200	144,600
Taxes & Insurance	201,900	478,600
Supplies	93,000	89,500
Furniture & Equipment	18,050	20,900
Printing	17,700	21,300
Telephone	76,900	84,400
Postage	109,800	112,500
Travel & Entertainment	95,000	109,000
Meeting Expense	20,000	18,100
Periodicals & Business Serv.	19,900	23,600
Organization Memberships	9,050	8,900
Contingency	5,000	5,000
	$3,486,700	$4,312,900
Projects		
Technical	$ 241,000	$ 332,700
Public Relations	190,900	191,300
Government Relations	41,000	10,000
Staff Services	2,000	-
	$ 474,900	$ 534,000
Total Expense	$3,961,600	$4,846,900

CMA 062109

REPORT OF THE SECRETARY-TREASURER
October 10, 1978

Dollar amounts rounded from tabular details
($000)

INCOME & EXPENSE

June 1, 1978 - September 30, 1978 - 4 Months (33%)

				Percent of Budget
Income	- Membership Fees	$3,591		99.3%
	- Other	325		35.7%
			$3,916	86.5%
Expense	- Operations	$1,554		33.8%
	- Projects	61		9.5%
			$1,615	30.9%

ASSETS

(As of September 30, 1978)

Cash	$ 17	
Investments	9,058	
Miscellaneous	8	
		$9,083

MANUFACTURING CHEMIST ASSOCIATION

STATEMENT OF FINANCIAL POSITION

September 30, 1978

BALANCE SHEET

Assets

Cash		
National Savings & Trust - Commercial Account	$ 9,492	
National Savings & Trust - Payroll Account	6,000	
Impress Funds	800	$ 16,292
Investments		
Bank Certificates of Deposit	$2,450,000	
Bank Repurchase Agreements	270,000	
U. S. Government Securities	1,836,481	
U. S. Government Agency Securities	2,189,526	
Corporate Securities	2,312,250	9,058,257
Deposits & Advances		
U. S. Government Printing Office	$ 500	
American Airlines	425	
Postage Meter	2,869	
Travel Advances	4,250	8,044
		$9,082,593

Liabilities & Fund Balances

Liabilities			
D.C. Sales and Use Tax			$ 652
Reserve			
Deferred Compensation			147,000
Fund Balances			
Restricted (Schedule I (e))		$4,410,568	
Unrestricted - From Previous Fiscal Years	$2,223,465		
- Current Fiscal Year	2,300,908	4,524,373	8,934,941
			$9,082,593

INCOME & EXPENSE

INCOME		
Membership Dues & Entrance Fees		$3,591,284
Income from Investments		160,233
Publications Sales		33,346
*(1)Meeting & Special Funds (Schedule I (d))	$ 68,277	
Overhead Reimbursement Subscribed Projects (Schedule I (d))	61,368	129,645
Miscellaneous		1,553
Total Income		$3,916,061
EXPENSE (Schedule II)		
Management		$ 519,527
Technical - General		456,458
Technical - Chemtrec		96,179
Public Relations		252,091
Government Relations		151,295
Staff Services		139,603
Total Expense *(2)		$1,615,153
Income less Expense		$2,300,908

FOOTNOTES:

*(1) Net Income on Completed Projects

*(2) Total General Program Expense

Fiscal Year 1977-78 Budget Program Expense (above)	$1,615,153
Expenditures from Project Funds carried over from previous Fiscal Year (Schedule I (c))	$ 400
	$1,615,553

CMA 062111

SCHEDULE I - RESTRICTED FUNDS & MEETING ADVANCES

September 30, 1978

	Balance June 1, 1978 (a)	Receipts (b)	Expenditures (c)	Transfers To Income (d)	Balance September 30, 1978 (e)
Carry-Over of Budgeted Funds					
OH - 7 AIHC/OSHA Hearings Monitor	$ 10,000	$ -	$ -	$ -	$ 10,000
S - 1 Document Center/OSHA Cancer	1,500	-	400	-	1,100
W -20 EPA Toxic Pollutants Criteria	36,640	-	-	-	36,640
Total Carry-Over	$ 48,140	$ -	$ 400	$ -	$ 47,740
Non-Budgeted Funds & Meetings					
Meetings, Workshops & Symposia	$ 138,036	$ 38,290	$ 73,573	$ 68,277	$ 34,476
Tank Car Mileage Compensation	41,071	-	7,982	-	33,089
MCA/AAR Rail Systems Safety	4,370	82,830	-	-	87,200
Vinyl Chloride Research	375,379	-	17,941	5,570	351,868
Phosgene Safety Research	20,986	66,000	10,006	3,316	73,664
Fluorocarbons Research	1,852,363	374,585	427,089	16,286	1,783,573
Phthalate Esters Research	39,737	-	7,650	2,837	29,250
Loss Data Bank (Ins.)	3,264	-	157	-	3,107
Acrylonitrile Monomer Research	96,725	-	15,734	1,160	79,831
Trichloroethylene Research	100,860	-	6,014	12,573	82,273
Chlorobenzenes Research	179,871	-	(46)	888	179,029
Allyl Chloride Research	131,270	-	-	-	131,270
Epichlorohydrin Research	221,102	433,647	-	493	654,256
Vinylidene Chloride Monomer	180,627	26,433	-	1,187	205,873
Styrene Monomer	90,919	-	42	5,222	85,655
Ethylene Dichloride Research	193,361	-	27	4,213	189,121
Benzene Study	302,929	-	103,024	2,130	197,775
Epoxy Resins Research	5,267	-	-	170	5,097
Titanium Dioxide Research	44,046	-	14,660	372	29,014
Butylated Hydroxytoluene	24,945	-	15,468	4,951	4,526
Chemical Industry Trade Advisor	876	7,000	5,637	-	2,239
Document Center/OSHA Cancer Policy	295	400	669	-	26
Total - Non-Budgeted Funds	$4,048,299	$1,029,185	$ 705,627	$ 129,645	$4,242,212
Plastics Group Financial Package	$ 120,616	$ -	$ -	$ -	$ 120,616
TOTAL	$4,217,055	$1,029,185	$ 706,027	$ 129,645	$4,410,568

CMA 062112

SCHEDULE - EXPENSE

BUDGETED PROGRAM

September 30, 1978

	MANAGEMENT		TECHNICAL GENERAL		TECHNICAL CHEMTREC		PUBLIC RELATIONS		GOV'T RELATIONS		STAFF SERVICES		TOTAL TO DATE 4 MONTHS	
	EXPENSE	BUDGET	EXPENSE	BUDGET	EXPENSE	BUDGET	EXPENSE	BUDGET	EXPENSE	BUDGET	EXPENSE	BUDGET	EXPENSE	BUDGET
Employees	15		26		8		11		12		14		86	91
OPERATING EXPENSE														
Salaries & Related Expense	$193,828	$182,498	$208,553	$212,431	$ 50,612	$ 54,633	$ 88,129	$ 91,232	$ 85,383	$ 89,566	$ 72,742	$ 74,899	$ 699,247	$ 705,259
Retirement Plan & Group Ins.	61,835	30,900	96,998	37,866	25,692	8,666	48,869	15,333	28,795	15,500	37,281	11,900	299,470	120,165
Hosp. Ins. & Health Plan	2,392	3,700	5,751	6,667	446	667	2,530	3,133	1,861	2,833	2,727	3,233	15,707	20,233
* Legal Fees & Expense	212,995	126,665	74,312	151,665	-	-	-	-	5,844	10,000	-	-	293,151	288,330
* Consultants & Investment Serv.	-	2,667	3,231	20,333	-	-	-	-	-	-	-	-	3,231	23,000
Audit	4,552	1,833	-	-	-	-	-	-	-	-	-	-	4,552	1,833
Rent & Premises Expense	9,054	8,300	13,129	12,867	2,534	2,567	7,098	7,100	5,738	5,700	11,857	11,666	49,410	48,200
Taxes & Insurance	7,194	8,850	9,140	79,233	3,085	53,966	4,796	5,833	4,133	5,516	5,644	6,133	33,992	159,531
Supplies & Gen. Office Exp.	6,999	4,833	11,924	11,333	1,168	1,000	5,487	5,167	5,532	5,000	2,537	2,500	33,647	29,833
Furniture & Equipment	3,012	2,000	1,697	2,500	-	1,500	-	83	-	667	1,709	217	6,418	6,967
Printing	2,694	1,833	910	1,000	1,305	1,500	6,234	1,833	421	333	1,843	600	13,407	7,099
Telephone & Telegraph	4,833	3,260	4,394	7,433	8,455	8,967	1,987	3,057	1,797	3,090	1,684	2,327	23,150	28,134
Postage	3,392	2,267	10,060	11,667	359	500	22,282	18,333	3,702	4,000	535	733	40,330	37,500
Travel & Entertainment	4,109	6,333	7,340	11,000	2,172	1,333	9,953	9,667	3,684	7,666	306	333	27,564	36,332
Meeting Expense	966	4,000	138	600	-	67	-	33	538	1,333	-	-	1,642	6,033
Periodicals, Books, etc.	694	3,000	506	800	351	200	321	600	3,762	2,667	638	600	6,272	7,867
Organizational Memberships	938	1,167	1,125	933	-	33	232	400	105	367	100	67	2,500	2,967
Contingency	40	1,667	-	-	-	-	-	-	-	-	-	-	40	1,667
Operating Expense Totals	$519,527	$395,773	$449,208	$568,328	$ 96,179	$135,599	$197,918	$161,804	$151,295	$154,238	$139,603	$115,208	$1,553,730	$1,530,950
PROJECTS														
Technical														
* Chemical Regulations			$ -	$ 83,333									$ -	$ 83,333
Safety and Fire Protection			-	2,833									-	2,833
* Solid Wastes			-	2,000									-	2,000
Water Resources			-	14,333									-	14,333
Multi-Committee/Transportation			-	1,400									-	1,400
Multi-Committee/Publications:														
Safety			7,250	38,666									7,250	38,666
Other			-	3,667									-	3,667
Public Relations														
Community Relations							$ 6,441	$ 10,533					6,441	10,533
Consumer Information							19,887	19,100					19,887	19,100
Environmental Quality							12,472	12,967					12,472	12,967
Internal Publications							-	5,000					-	5,000
Media Relations							1,258	2,833					1,258	2,833
Teacher Awards							2,830	5,500					2,830	5,500
Education Exhibits							1,225	1,667					1,225	1,667
Education Publications							10,060	6,167					10,060	6,167
Government Relations														
Trade Advisor									$ -	$ 3,333			-	$ 3,333
Project Totals	$ -	$ -	$ 7,250	$146,232	$ -	$ -	$ 54,173	$ 63,767	$ -	$ 3,333	$ -	$ -	$ 61,423	$ 213,332
COMBINED TOTAL	$519,527	$395,773	$456,458	$714,560	$ 96,179	$135,599	$252,091	$225,571	$151,295	$157,571	$139,603	$115,208	$1,615,153	$1,744,282

* Budget Amendments - see reverse side

CMA 062113

HEDULE II - EXPENSE FOOTNOTES

September 1978

BUDGETED PROGRAM

Budget Amendment

(1) August 8, 1978 by Executive Committee provides

$120,000	for Legal Fees to intervene in ICC Discriminatory Rail Rate proceedings.
50,000	for Legal Fees to provide "issues and action" study on EPA regulations under the Clean Air Act.
125,000	for expansion of the TSCA Economic Impact Study ($100,000 for study, and $25,000 for consultants).
$295,000	

(2) September 12, 1978 by Executive Committee provides

$ 50,000	for Legal Action on EPA Pretreatment Standards for water prior to discharge to POTW.
25,000	for Legal Counsel to prepare MCA position statement on EPA Proposed National (Water) Pollution Discharge Elimination System Regulations.
10,000	for intervention in EPA Resource Conversion and Recovery Act proceedings.
6,000	for Solid Waste Studies - Criteria Evaluation and Methodology.
$ 91,000	

Adjustment of Pension Payments to Retirees

During the study of MCA's Pension Plan which resulted in the revision effective 12/1/74, now continuing in force, inclusion of a cost-of-living escalator was not recommended because of prohibitive cost. The principle of adjusting pension payments to retirees periodically was accepted, however, and the first such adjustment, effective 12/1/74, amounted to 3% per year in retirement. A second adjustment, amounting to 4% per year in retirement since 12/1/74, was made effective 12/1/76.

Inasmuch as MCA operates in the shadow of the Federal government, there is some relevance to the adjustments made in Federal pensions in the last two years, particularly because they are automatically geared to the Consumer Price Index. Increases have been as follows:

3/1/77	4.8%
9/1/77	4.3%
3/1/78	2.4%
9/1/78	4.9%

Thus Federal pensions have increased by nearly 17%.

Consideration of an adjustment of at least 4% per year in retirement since 12/1/76 is recommended. This would amount to 8% for the ten retirees and one surviving spouse who then were receiving pension benefits, and lesser percentages for the two employees who retired on 4/1/77 and 12/1/77.

The amortized annual cost of a 4% per year adjustment approximates $6,800.

Action required: Approval of the above at a cost of $6,800, approximately.

EC-10/10/78

Water Pollution Control Act Amendments of 1972
Section 311 -- Determination of Harmful Quantities

Section 311 of the Water Pollution Control Act Amendments of 1972 grants the Environmental Protection Agency (EPA) certain authority to regulate spills of hazardous substances. Section 311 requires EPA to determine, for each designated hazardous substance, the quantity of the substance which will be harmful to the public health or welfare depending upon particular "times, locations, circumstances and conditions" of the discharge. If a discharge in a "harmful quantity" occurs, the responsible person is subject to severe legal consequences including reporting requirements penalties and cleanup liability. One of the key issues in MCA's challenge of EPA's regulations published March 13, 1978, is that the Agency failed in clearly making its harmful quantity determinations. At the outset of the ensuing litigation of section 311, it was realized by MCA that a constructive alternative to the EPA regulations probably would be needed and in any event would be highly desirable. Accordingly, under the Environmental Management Committee, steps were taken to develop such an alternative and the results are promising.

Dr. W. B. Neely (Dow), using published EPA data and supplemental published data, has developed a solution to the problem of defining "harm" under different times, conditions and circumstances. The solution lies in the mathematical relationship between lethal concentrations for exposures of 6-96 hours (LC_{50}) and stream flow. However, the "Neely Method", does not allow for lakes, reservoirs or estuaries. Yet the state of the art is such that flow modeling techniques can be applied to such water bodies. When refined, the "Neely Method" would have several attributes:

(a) Owners and operators could make a desk top calculation to determine what would constitute a presumptively harmful spill of a given chemical. Thus, spill prevention control and countermeasures could be better defined in advance;

(b) Regulators could do the same, in concert with owners/operators;

(c) Effectively a real:time qualitative analysis of the spill's progression through waterways could be developed to aid in directing mitigating efforts; and

(d) A determination of presumptive harm would be facilitated and made more accurate in (a) in establishing penalties, which ultimately would be based on the gravity of the offense using a "no harm-no foul" precept.

Independent evaluation of the "Neely Method" is necessary to certify its technical soundness, to elaborate on it to provide application to water bodies other than flowing streams, and to provide independent judgment to supplement making early presentations to EPA.

It is planned to engage Hydroscience, Inc., at a cost not to exceed $5,000, on a limited consulting basis to verify the "Neely Method" and to broaden its applicability. Hydroscience possesses the streams modeling and aquatic toxicological skills both of which are necessary to the development of a complete solution, which would then be made available to EPA and member companies widely.

Action required: None. Funding to be provided under provisions granted the President for reallocation of current budgeted funds.

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MCA
EC - 10/10/78

Meeting with the Secretary of Commerce

U. S. Secretary of Commerce Juanita Kreps has invited a small group of chemical industry executives to meet with her on November 14 to discuss specific mutual concerns. The meeting reflects a broad-gauge effort by the Secretary to identify and take action on governmental problems of our industry. MCA has been asked to co-ordinate the response and participation of the chemical industry delegation. The names of those invited are shown in Addendum 1. Following the formal meeting, which is expected to last about two hours, the Secretary will host an informal reception and dinner to which will be invited a number of other key policymakers from within the Administration.

Preparations Under Way

MCA has transmitted to invitees a preliminary list of issues (see Addendum 2) which are:

a. Important to our industry,
b. Of current concern, and
c. Suitable for action by the Secretary.

A mutually acceptable agenda will then be worked out with Commerce. It is anticipated that members of our delegation will undertake to act as spokesmen and discussion leaders for various parts of our presentation, and that specific examples and case histories will be submitted.

ACTION REQUIRED

None. Information only.

EC-10/10/78

Addendum 1

Expected Attendees
Meeting Between
Department of Commerce
and
Chemical Industry Spokesmen

Mr. Edward Donley
Chairman of the Board
Air Products and Chemicals, Inc.

Mr. Alexander F. Giacco
President
Hercules Incorporated

Mr. Peter C. Reilly
Vice Chairman of the Board
Reilly Tar and Chemical Corporation

Mr. Jack B. St. Clair
President
Shell Chemical Company

Dr. Charles F. Fogarty
Chairman of the Board and President
Texasgulf Inc.

Mr. Robert A. Roland
President
Manufacturing Chemists Association

Mr. William M. Sneath
Chairman of the Board and
Chief Executive Officer
Union Carbide Corporation

Mr. Alexander B. Trowbridge
Vice Chairman of the Board
Allied Chemical Corporation

Mr. David L. Rooke
Vice President
The Dow Chemical Company

Mr. John M. Henske
President
Olin Corporation

Mr. William G. Simeral
Senior Vice President
E. I. du Pont de Nemours & Company

Addendum 2

Preliminary List of Issues

1. Toxic Substances Control Act: Sections 4, 5, and confidentiality

2. OSHA: Cancer Policy

3. Liability: Scope of Responsibility

4. International Trade

5. Regulation/Innovation/Investment

Additional preparation: We are also undertaking preparation for discussion of the wage/price controls issue, to be presented as appropriate.

Attachment F

Hazardous Materials Spills § 311 & § 402

Legislative Amendment to Settle the
Controversy Raised in MCA's § 311 Lawsuit

Status

As reported in the General Counsel's letter of September 16, 1978, addressed to the Executive Committee and General Counsels' Group, MCA has been negotiating a legislative resolution of the issues raised in the section 311 lawsuit. The Environmental Management Committee has generally approved the direction of the negotiations, and it appears that MCA will be able to support the final EPA proposal to Congress.

Many uncertainties remain regarding the legislative process in Congress, although the risks are low in this session because an unsatisfactory Senate bill could easily be blocked in the House.

Mr. Frost and Mr. Stover will report further at the meeting, October 10, 1978.

Action Required - None

Status Report

Litigation and Regulatory Proceedings

1. Prevention of Significant Deterioration Regulations On September 15, 1978, MCA counsel, Ted Garrett of Covington & Burling, filed our non-binding statement of issues (i e., other than the effective date question). Industry counsel have informally divided the responsibility for developing arguments and briefing the "major issues of concern" to industry. MCA counsel has been assigned the definition of "modification". The Environmental Management Committee considers this issue to be a major concern of the chemical industry. In regard to the effective date issue, the United States Court of Appeals for the District of Columbia will hear oral arguments on October 10, 1978.

2. Pretreatment Regulations On September 19, 1978, MCA petitioned the United States Court of Appeals for the Fourth Circuit to review EPA's general pretreatment regulations. MCA was joined as a named party by: American Paper Institute, Inc., National Forest Products Association, National Paint and Coatings Association, Synthetic Organic Chemical Manufacturers Association, Air Products and Chemicals, Inc., American Cyanamid Company, FMC Corporation, Hercules Incorporated, and Union Carbide Corporation. Nalco Chemical Company and Shell Oil Company will be added as parties in an amended petition for review.

3. Resource Conservation and Recovery Act Intervention On September 27, 1978, MCA filed a motion with the District of Columbia District Court to intervene in civil actions filed by the State of Illinois, the Environmental Defense Fund, Inc., and Environmental Action. The subject civil actions seek to compel EPA to promulgate necessary regulations to implement RCRA. MCA, in moving to intervene as a party plaintiff, has been joined by Atlantic Richfield Company, Chemical Products Corporation, Dow Chemical Company, FMC Corporation, PPG Industries, Inc., Shell Oil Company, and Union Carbide Corporation.

4. Section 311 Litigation EPA has filed a notice of appeal to the Fifth Circuit. EPA also requested that the District Court in Lake Charles stay its order to the extent it enjoined the section 311 reporting requirements. The District Court denied EPA's request for a stay. Meanwhile, as discussed in agenda item 5(b), EPA and MCA are working on a legislative settlement of the lawsuit.

5. Appeal of OSHA's Benzene Standard MCA is a party to the appeal of OSHA's benzene standard to the Fifth Circuit. The

Fifth Circuit has stayed the standard pending its ruling on the merits of the appeal. A decision on this important case is expected in the near future.

6. OSHA Medical Records Regulations On July 19, 1978, OSHA published "interim final" regulations barring employers from destroying the medical records of employees and providing OSHA and NIOSH access to such records. These regulations were made effective immediately based on supposed emergency conditions. On July 21, 1978, OSHA published proposed permanent regulations designed to take the place of the July 19, 1978 rules after notice and comment. The OSH Committee has prepared and MCA has filed comments opposing the July 21 proposed regulations, and it has asked MCA General Counsel to consider legal action to bar OSHA access to medical records under the July 19 "interim final" regulations. The matter is now under consideration and an additional report will be made.

7. National Pollution Discharge Elimination System Proposed Regulations On September 21, 1978, MCA made a statement at a public hearing on the proposed revision of the EPA NPDES program. In addition, MCA plans to submit in depth comments on the proposed regulations by the end of the formal comment period. In this regard, MCA plans to request that EPA extend the comment period by 60 days to afford MCA the necessary time to develop meaningful comments. Such an extension is necessary in light of the extremely complex nature of the regulations and the issues raised by the proposed regulations. Several other trade associations have indicated they will be making similar requests for an extension of the comment period.

8. ICC Proceedings on Discriminatory Rail Rates MCA has filed a brief in Ex Parte 353 opposing the railroads' request for an overall 12.5% return on capital. By October 9, 1978, MCA will file a brief and evidentiary statement in Ex Parte 349 calling for a moritorium on general rate increases for categories of chemicals which already bear high rates in comparison to costs.

9. Section 21(a) Petition to Amend, and/or Repeal Regulations to Implement Section 8(d) of the Toxic Substances Control Act On September 12, 1978, MCA at the request of the Chemical Regulations Advisory Committee petitioned EPA pursuant to Section 21(a) of TSCA to initiate an administrative proceeding to amend and/or repeal the regulations promulgated by the Agency to implement section 8(d) of TSCA (i.e., submission of health and safety studies). The Agency has 90 days from submission of the petition to either grant or deny the petition. As of this date, we have not received a

formal Agency response to our petition, nor have we been contacted by representatives of the Administrator to provide further information, or to participate in any administrative proceedings on this matter.

10. TSCA, Section 5 Premanufacturing Notification MCA has asked outside counsel (Wilmer, Cutler & Pickering) to assist the CRAC task group on section 5 in preparing legal arguments concerning confidentiality and notification vs. licensing under section 5.

11. OSHA Generic Cancer Regulation Following the lead of AIHC, MCA has participated in the hearings on OSHA's proposed generic cancer regulation. MCA's post hearing brief will be filed in the near future.

Mr. Frost will supplement this report at the meeting.

Action Required: None

Attachment H

MANUFACTURING CHEMISTS ASSOCIATION

REPORT BY THE DIRECTOR OF GOVERNMENT RELATIONS

WILLIAM M. STOVER

OCTOBER 10, 1978

ENACTMENT OF A NATIONAL ENERGY PLAN REMAINS A TOP PRIORITY

Slowly and with difficulty the Congress is struggling toward enactment of a National Energy plan, but in a form vastly different from President Carter's original proposal. The Senate has now approved conference reports on coal conversion and natural gas pricing legislation, and conferees have resolved most of their remaining differences in utility rate reform and general conservation. The energy tax provisions are still in conference.

After the Senate approves the conference reports, the House plans to combine all the Senate-passed bills into one omnibus bill, and vote once on the entire package.

The conference agreement on natural gas pricing deregulates new gas and expensive sources of gas by 1985, and extends Federal price controls to the intrastate market. It contains provisions which will incrementally price high cost gas to industrial users.

The effects of the natural gas bill on chemical industry feedstocks and fuel is conjectural at this point. However, the following tables projecting natural gas prices may serve as a guideline:

New Gas Ceiling Price Projections *

	--- Status Quo ---		--- Conference Agreement ---
	Intrastate	Interstate	
1978	$1.82	$1.50	$1.99
1979	1.93	1.59	2.21
1980	2.04	1.69	2.42
1981	2.17	1.79	2.65
1982	2.30	1.89	2.91
1983	2.44	2.01	3.19
1984	2.58	2.13	3.50
1985	2.74	2.26	3.86

* see next page

New Gas Ceiling Price Projections

* Price per million Btu's, as of midyear each year. Projection assumes 6 percent annual inflation.

Energy Department 1985 Natural Gas Retail Price Projections

(in million Btu's, 1978 dollars)

	Current Law	Conference Agreement
Residential	$3.22	$3.31
Commercial	3.02	3.25
Raw Material	2.38	2.55
Industrial	2.35	2.59

Although the energy tax conferees are still deliberating, they have tentatively agreed to delete both the crude oil equalization tax and the industrial user tax on oil and gas. They also adopted a provision allowing for accelerated depreciation for oil and gas boilers which are retired before the end of their useful life or are replaced by boilers using alternative energy sources. It has also been agreed, in general terms, that additional investment tax credits will be allowed for equipment used in developing alternative energy sources, heat recovery and recycling.

Conferees must resolve differences over tax credits to homeowners for insulation or energy-saving devices, as well as the question of tax treatment of autos with higher rates of gasoline consumption.

Agreements reached in the energy tax area are considered fragile and the outlook for final enactment of this portion of the energy package is uncertain.

TAX BILL MOVING

On October 1 the Senate Finance Committee reported H.R. 13511, the Revenue Act of 1978, and floor action began October 5.

The Committee version provides a $23 billion tax cut as compared to $16.3 billion in the House-passed bill. Most of the added cuts go to individuals in the middle and lower income ranges, with few additional benefits for business.

Provisions dealing with corporate rate reductions and the investment tax credit are substantially similar in the two versions. The Senate Finance bill contains a provision increasing the asset depreciation range (ADR) from 20% to 30%, and is not in the House bill.

Substantially differing approaches to providing capital gains tax relief are proposed. The House bill would take capital gains out of the computations of the minimum tax and maximum tax, pulling the top gains rate down to 35%. The Senate Committee measure excludes 70% of the gains and taxes only 30% at regular rates, thus reducing the top capital gains tax rate to 21%.

On the Senate floor, numerous amendments to H.R. 13511 will be considered. Senator Edward Kennedy (D-MA) has a list of amendments which include repeal of the Domestic International Sales Corporation (DISC) provisions, current taxation of the undistributed earnings of U. S.-controlled foreign corporations, deleting capital gains tax cuts and striking of the faster depreciation provision. DISC and "deferral" are expected to survive, although the vote on these issues could be close.

Amendments to provide larger corporate rate reductions, larger across-the-board individual rate reductions and indexing of income taxes also are likely to be introduced, but none appear likely to gain approval.

President Carter has threatened to veto a tax bill which contains the kind of capital gains tax relief provided for in the Finance Committee bill. Thus, some reduction of benefits is probable on the Senate floor or in conference.

The Senate leadership hopes to complete action on the tax bill by October 7. A House-Senate conference will then attempt to reach a prompt compromise to permit final passage by October 14.

WAGE-PRICE GUIDELINES?

There are strong indications that the Administration is moving toward the announcement of wage-price guidelines. Figures under consideration are rumored to be 5.75 percent annually for price increases and 7 percent for wage increases. The usual preliminaries to this counter-move to an unacceptable inflation rate have already taken place. In August, for example, Special Counsellor on Inflation Robert Strauss announced the results of his oral and written appeals to corporations. Many were named as promising to keep salary increases below the average of the last two years and to hold executive compensation to increases of five percent or less.

Open speculation concerning wage-price guidelines also occurred, encouraged by the Administration as a trial-balloon experiment. Predictably, both business and labor responded in opposition, while polls showed the public generally more in favor of mandatory controls.

Wage-price bills introduced in Congress have no immediate future, thus any definite action must come from the White House. The President has reaffirmed his opposition to mandatory wage-price controls but now qualifies it by adding "unless our nation faces a very serious emergency or crisis."

Should guidelines issue, there is some possibility they will be on an industry-by-industry or company-by-company basis. We are therefore moving ahead with an MCA white paper and fact sheet for use by the Association or its Members in future communications with the White House. These materials are in the final-polishing stage.

TOXIC SUBSTANCES

The House Rules Committee last week granted a one hour open rule for consideration of H.R. 12441, a bill amending the Toxic Substances Control Act to increase the authorization levels for Fiscal Year 1979. A motion to grant a rule waiving points of order was defeated. Full House consideration of the bill should follow quickly.

Representatives Ruppe (R-MI) and Ford (D-MI) have made known their intention to introduce a floor amendment similar to a provision in the Senate-passed bill, creating an indemnification program for victims of chemical contamination. Both Subcommittee Chairman Bob Eckhardt (D-TX) and Ranking Minority Member James Broyhill (R-NC) have expressed opposition to the amendment. They are expected to object and raise a point of order regarding the Ruppe/Ford amendment's germaneness. It is our belief that the House Parlimentarian will sustain the objection.

Final passage of H.R. 12441 is expected, but the prospects for conference with the Senate are uncertain due to time constraints and jurisdictional disputes between two Senate Committees. Another possible outcome would be adoption of the simple one-year authorization contained in the House version. (See addendum, pg. 12)

SUPERFUND: THE OIL SPILL LIABILITY AND COMPENSATION ACT OF 1978

On August 25, 1978, the Senate Environment and Public Works Committee reported S. 2083, and the bill could now be considered on the Floor at any time. In its present form the measure contains objectionable provisions which create a superfund and establish a liability scheme for spills of hazardous chemicals. It also allows

States to enact duplicative spill laws and liability funds.

The content of the Senate bill and unpredictable Congressional attitudes make it unlikely that reasonable legislation would result from a conference agreement on Senate and House-passed bills. For that reason MCA, joined by the American Petroleum Institute, the American Waterways Operators, and other effected industries has sought to defer action until next year. Several Senators have intervened on our behalf, resulting in delay in what might otherwise have been open-and-shut Senate action.

In the event that the bill gains Senate approval, a subsequent conference with the House would be necessary to resolve differences between the two bills. The House version, H.R. 6803, applies only to oil and does not cover hazardous substances and would preempt state liability laws and funds.

At this point the calendar appears to be working in our favor and, barring a post-Election Session, chances for enactment of a bill are rapidly diminishing. But unusual happenings become routine as Congress nears adjournment, and the outlook can shift significantly from day to day. (See addendum, pg. 11)

SECTION 311 OF THE CLEAN WATER ACT

On August 4, 1978, the Federal District Court of the Western District of Louisiana ruled, in response to MCA's suit, that regulations implementing Section 311 of the Clean Water Act were null, void and unenforceable. The EPA, faced with prospects for a long and perhaps unsuccessful appeal, or a time-consuming rewrite of the regulations to satisfy the Court's concerns, has actively pursued a third option, legislative repair to Section 311. MCA and other parties to the litigation have been contacted by EPA and asked to participate in this effort.

Several days of negotiation with the Agency and analysis within MCA and our appropriate committees have resulted in formulation of an acceptable proposal to amend Section 311. Thomas C. Jorling, Assistant Administrator for Water and Hazardous Materials, testified October 5 before the Subcommittee on Environmental Pollution of the Senate Environment and Public Works Committee. If the Committee approves the measure, it will be attached as a rider to a House-passed authorization bill, H.R. 12140, and quickly sent to the Senate floor for final passage. The measure would then return to the House where the attempt would be to obtain quick approval.

It is clear that the short time remaining in this Congress and the delicate parliamentary steps remaining to be taken make it rather doubtful that this amendment can be enacted. Never -

theless, we are working carefully and in cooperation with other industries to see what can be achieved.

OSHA OVERSIGHT IN THE HOUSE OF REPRESENTATIVES

The Subcommittee on Manpower of the House Government Operations Committee has conducted extensive oversight hearings on Federal administration of the occupational safety and health laws during the past three years, including such topics as chemical dangers in the workplace, and failure of OSHA to meet its statutory commitments. While the Subcommittee has no legislative jurisdiction, it held these hearings to prod OSHA into moving with greater alacrity in carrying out its legislative mandate.

On September 14 and 19 this Subcommittee continued its oversight hearings. Representative Cardiss Collins (D-IL) praised OSHA for its progress under the new Administration in targeting high risk industries and health hazards, reducing paperwork burdens, deleting "nit-picking" standards, etc., but asked what OSHA is doing about the hidden chemical dangers in the workplace. She quoted NIOSH estimates that millions of workers are exposed to toxic industrial chemicals without their knowledge. Congresswoman Collins claimed this lack of knowledge about what is present in the workplace is one of our biggest occupational health problems, and cited Secretary Califano's recent AFL-CIO speech to the effect that at least 20% of cancer incidence can be attributed to occupational exposure.

The only witnesses permitted to testify were OSHA officials. Dr. Eula Bingham's testimony conceded some past failures and delays under previous Administrations, attempted to show great progress under the new leadership, and generally depicted a reasonable and moderate approach in avoiding hasty judgments and unduly burdensome requirements.

In sum, the House hearings were a continuation of the Subcommittee's oversight pressure on OSHA to adopt standards, such as labeling standards, which would place primary responsibility on manufacturers to adequately inform employees and employers alike regarding hazards of the workplace.

OSHA OVERSIGHT IN THE SENATE

The Subcommittee on Labor of the Senate Human Resources Committee has legislative jurisdiction over occupational safety and health laws. This Subcommittee, whose chairman is Harrison A. Williams, Sr. (D-NJ), and Ranking Minority Member is Jacob K. Javits (R-NY), last held hearings into the basic operation of these laws in 1972.

On October 3, 4 and 5 the Subcommittee undertook broad oversight hearings on the entire OSHA operation for the stated purpose of determining whether it's working to improve worker safety, and especially health.

The Subcommittee focused on less burdensome and streamlined enforcement, the appropriateness of penalty levels, the paperwork burden, quality and quantity of standards and inspections, the Bergman Interagency Task Force Report, Court decisions such as the Barlow search warrant case, and impacts on small business.

Secretary of Labor Marshall's testimony opened the hearings with a strong defense of this embattled agency's record, especially under the new Administration. The National Institute for Occupational Safety and Health described its progress in translating research into enforceable standards and in conducting health hazard evaluations. The Alliance of American Insurers testified to the reduction in insurance industry costs resulting from OSHA's work in improving worker safety and health. The Cotton Council and American Textile Manufacturers Institute testified to fallacies underlying OSHA's recently promulgated cotton dust standard and "brown lung" disease, byssinosis. Wheaton Industries complained of OSHA harrassment, unannounced inspections, and fines for first violations which were corrected within hours. The American Pulpwood Association commended OSHA for being helpful in furthering its long-time record of good safety practices in the logging industry. The AFL-CIO's Andrew Biemiller testified in defense of OSHA, particularly as to its concerns about the special problems of small business, "common sense" programs, the cotton dust standard, the polyvinyl chloride standard, and the need for greater resources to accomplish OSHA objectives.

On October 5 the Manufacturing Chemists Association presented testimony at the Senate hearings. Testifying for MCA were Dr. Bruce W. Karrh, Medical Director of E. I. du Pont de Nemours & Company, Dr. Rick D. Fulwiler, Associate Director of the Health Department for the Procter & Gamble Company, Dr. Jerry M. Smith, Director of Toxicology for Rohm and Haas Company, and Mr. Ned K. Walters, Manager of Safety and Fire Protection for E. I. du Pont de Nemours & Company.

The MCA testimony reflected a constructive concern over OSHA's shortcomings , and its failure to meet the earlier and somewhat misguided expectations of Congress, in making a significant impact on worker safety and health. Dr. Karrh emphasized that the employer, not government, must be responsible for the workplace, and that the OSHA-fostered adversarial atmosphere has precluded the kinds of cooperative efforts among employer, employee and the government which are essential to achievement of the Act's purposes. MCA also dealt briefly with the need for a uniform Federal cancer policy, the access-to-medical records controversy and industry's private research efforts.

The stated objective of the Senate hearings was to achieve a alanced evaluation of OSHA's performance in carrying out its egislative mandate to improve worker safety and health It became apparent to us, however, through discussion with staff and analysis of the questioning, that this pro-labor Subcommittee was seeking to obtain from OSHA, the AFL-CIO, and their supporters, factual argumentation, documented studies, white papers and other information for possible use on the Senate floor. Such material could perhaps offset the strong attacks being made by other Senators that activities of the Agency should be sharply restricted.

We believe the MCA testimony was surprisingly well-received given the Subcommittee predispositions. Senators in attendance expressed keen interest in the responses by Dr. Karrh's panel of experts in toxicology, industrial hygiene and safety. The MCA spokesmen took full advantage of the opportunity to persuade key lawmakers of the validity, perhaps for the first time, of another side of the OSHA story.

PRODUCT LIABILITY DEVELOPMENTS: MCA TESTIFIES

On September 28 and 29 the Miscellaneous Revenue Measures Subcommittee of the House Ways and Means Committee conducted hearings on number of bills to provide tax deductions for amounts held in reerve or placed in trust to cover product liability costs.

Mr. Robert L. Mitchell, Executive Vice President of Celanese Corporation, testified in strong support of such legislation on behalf of MCA. Mr. Mitchell said that chemical companies are sharing the experience of many other U. S. companies, which are unable to obtain adequate product liability coverage or are being charged excessive premiums, or both.

In August a Subcommittee of the Senate Finance Committee held hearings on similar bills. At that time the Association submitted a statement for the record in support of the legislation.

It is noteworthy that the Administration opposes legislation that would permit deductions for contributions to product liability self-insurance trusts. In both House and Senate hearings, a Treasury Department witness testified in favor of an alternate proposal which would authorize a 10-year net operating loss carryback for product liability.

Neither the House Ways and Means Committee nor the Senate Finance Committee is expected to act on this legislation this year.

LABOR LAW REFORM REVISITED

On June 22, after a sixth attempt at cloture failed on the Senate floor, H.R. 8410 was recommitted to the Human Resources Committee. More recently, Chairman Williams' Subcommittee on Labor drafted a so-called "watered down" version which eliminated a number of provisions objected to by industry, such as expansion of the NLRB, "make whole" remedies, timetables for union representation elections, equal access to union organizers, and debarring labor law violators from government contracts. The new version, an attempt to gain a consensus of support, included provisions objectionable to industry, including 150% backpay, preliminary injunctions, $5000 per day penalties for willful violators, etc.

Senator Williams scheduled Subcommittee markup on the new version for September 29, and full Committee markup on September 30, but concerted industry opposition convinced the leadership that quick passage of even the "watered down" bill would be virtually impossible. The markups were then postponed indefinitely. It appears most unlikely this bill will be brought to the Senate floor in the remaining days of this Congress. A "lame duck" Session could alter this situation, however.

HOUSE GOVERNMENT OPERATIONS COMMITTEE TO ISSUE REPORT ON EMERGENCY RESPONSE TO TRANSPORTATION ACCIDENTS

You will recall that the House Government Operations Committee's Subcommittee on Government Activities and Transportation held hearings in April to examine National Transportation Safety Board (NTSB) recommendations intended to reduce casualties among fire fighters and police in hazardous material accidents. The hearings were called in direct response to derailments and subsequent explosions of propane and chlorine gas in Tennessee and Florida.

At the hearings, NTSB Chairman James King severely criticized the Department of Transportation for failing to establish, under existing statutory authority, an emergency response program. King characterized MCA's Chemical Transportation Emergency Center (CHEMTREC) as inadequate.

Last week, the Government Operations Committee approved the report associated with those hearings. Though the text of the report has not yet been made public, it reportedly recommends that the Department of Transportation establish its own emergency response data collection and dissemination center, and calls for Federally-trained emergency response teams to provide on-the-scene guidance.

"ILLINOIS BRICK" LEGISLATION

S. 1874 and H.R. 11942 would reverse the U. S. Supreme Court decision in the Illinois Brick Co. v. Illinois case and would permit indirect purchasers to recover damages in antitrust cases.

These bills, which have been reported out by the House and Senate Judiciary Committees, could be scheduled for floor debate, but with the press of other business, this appears unlikely.

Senate Majority Leader Robert Byrd has resisted pressure from Senator Kennedy, principal backer of S. 1874, to schedule Senate action on the bill, as Senator Orrin Hatch, who is supporting the business community on this measure, has indicated that he will propose numerous amendments to the bill if it reaches the Senate floor.

On the House side, Rules Committee Chairman James J. Delaney has postponed consideration of H.R. 11942 from one week to the next as it appears that a majority of Rules Committee Members are against this legislation.

It is the consensus of the business community that this legislation is dead, although it bears careful watching in view of Senator Kennedy's strong interest in the measure and possibilities of a ost-Election Session.

ADDENDUM: LATE ACTION ON SUPERFUND BILL

On October 5 the Oil Spill Liability and Compensation Act of 1978, S. 2083, passed the Senate by voice vote. The measure has now been forwarded to the House under its original House bill number, H.R. 6803.

On October 9, House and Senate staff members met to determine if the extreme differences between the bills passed by each House could be resolved before Congress adjourns. No progress was reported at this first meeting. Staff deliberations will continue today.

If staff agreements can be reached, the parlimentary procedure would be as follows: (a) a conference committee will not be convened; (b) staff agreements would be introduced to Senate-passed H.R. 6803 on the House floor; (c) if House approval is obtained, the measure would be returned to the Senate which could either accept or reject the new House version.

ADDENDUM: LATE ACTION ON TOXIC SUBSTANCES

H.R. 12441 has been taken off the House calendar and will not be considered this year. Several factors contributed to this decision by the House leadership: (a) an appropriation of $46.5 million for the EPA Office of Toxic Substances has already been signed by the President; (b) final House/Senate agreement on the $50 million authorization for the Office of Toxic Substances could not have been reached without a conference on other controversial measures in the Senate bill; (c) jurisdictional problems between the Senate Commerce and Environment and Public Works Committees are not likely to be resolved in the short time remaining this session; and (d) insufficient time remains to convene a conference committee.

Exhibit N

Status Report

Toxicological Effects of Hazardous Air Pollutants

Recommended by: Environmental Management Committee

	Budget Request	Commitment Desired by
Fiscal Year 1978-79	$75,000	January 9, 1979 (from October 10, 1978)

For several months, the Environmental Management Committee (EMC) has been expecting the long overdue declarations of vinyl chloride and benzene to be controlled as hazardous substances under section 112 of the Clean Air Act of 1977. Indications are that the control measures will be severe.

Benzene will be banned as a feedstock for new maleic anhydride facilities. Emission levels from existing facilities will be limited to about 18 lb/day, a level only slightly higher than the strict hydrocarbon limit of 3 lb/hr:15 lb/day level studied for MCA in 1976-77 by F. D. Snell Division of Booz Allen & Hamilton, Inc.

A vinyl chloride ambient air standard of 0.01 ppm has been set by the California Air Resources Board. That level has been chosen because it is the lowest detectable level with present analytical methods.

The latent problem remains. However, at the EMC-EPA joint meeting in Cincinnati on September 21, a U. S. Environmental Protection Agency spokesman stated that no action would be taken until EPA has announced its cancer policy. He also stated the announcement "will be made by the end of the year", the policy will consider cost/benefits and will not be based on zero-risk.

Under these circumstances, and until EPA's views are known and can be evaluated, the study cannot be specifically defined. Accordingly, the request for a commitment of study funds is being deferred.

Action requested: None -- for information only.

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MCA
EC - 10/10/78

Exhibit O

Status Report

Ambient Primary and Secondary Air Quality Standards

Recommended by: Environmental Management Committee

	Budget Request	Commitment Desired by
Fiscal Year 1978-79	$75,000	December 12, 1978 (from October 10, 1978)

EPA is in the process of making its required periodic five-year review of national ambient air quality standards, which requires the use of "best available scientific evidence." Ozone (O_3) was chosen as the priority standard for review. On June 22, EPA proposed increasing the standard from 0.08 ppm to 0.10 ppm, effective September 30, 1978. MCA commented on September 22, 1978. Because EPA has since extended the comment period to October 23, 1978, we are uncertain as to the effective date, but expect it to be an early one.

It is our judgment that EPA has not recognized the best available scientific evidence, and it has created excessive margins of safety through compounding event probabilities. For example, an event of 0.15 ppm would exceed the proposed standard of 0.10 ppm, more than once per year, only every 250 years, according to an analysis of EPA probability estimates. Since recent health studies at the Harvard School of Public Health show no adverse health effects for 2-4 hour exposures at 0.25 ppm, and even though some EPA officials concede that 0.15 ppm would be proper, an unrealistic margin of safety has been provided.

Moreover, an August 22 report by a Texas Air Control Board chemist that ozone generators produce highly reactive singlet oxygen, at atomic ratios of 3:1 to O_3, is deeply disturbing because smog chamber test results are cast in doubt and may be worthless. EPA has relied heavily on smog chamber work for setting the O_3 standard. Interestingly, ambient O_3 studies have seldom agreed with smog chamber data.

The extended comment period and the singlet oxygen report with reference to ozone generators make uncertain the precise nature of the studies needed at this time. Confirmatory work is indicated. The stakes obviously are very large. Refined proposals are being prepared by the EMC with the expectation that they will be submitted on December 12, 1978.

Action required: None -- for information only.

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MCA