# MANUFACTURING CHEMISTS ASSOCIATION
## MINUTES OF MEETING
## LEGAL ADVISORY COMMITTEE

MCA Offices, Conference Room 404
1825 Connecticut Avenue, N. W., Washington, D. C.
March 2, 1977

PRESENT

| | |
|---|---|
| Edwin J. Putzell, Jr., Chairman | Monsanto Company |
| James I. Wyer, Vice Chairman | American Cyanamid Company |
| Keith W. Blinn | Continental Oil Company |
| Brian D. Forrow | Allied Chemical Corporation |
| James H. Hanes | Dow Chemical U. S. A. |
| Leon C. Holt, Jr. | Air Products and Chemicals, Inc. |
| Iver C. Macdougall | Stauffer Chemical Company |
| Arloe W. Mayne | Ashland Oil, Inc. |
| Bernard J. McNamee | Hooker Chemicals & Plastics Corp. |
| E. J. Mooney | Nalco Chemical Company |
| David Sigman (alternate for Mr. Bidwell) | Exxon Chemical Company |
| G. J. Triplett (alternate for Mr. Stichnoth) | Union Carbide Corporation |
| S. Maynard Turk | Hercules Incorporated |
| Donald P. Walsh | Shell Oil Company |
| Bruce M. Barackman, Secretary | Manufacturing Chemists Association |
| William J. Driver | Manufacturing Chemists Association |
| Daniel Marcus, Outside Counsel | Wilmer, Cutler & Pickering |

ABSENT

| | |
|---|---|
| Robert H. Bidwell (alternate designated) | Exxon Chemical Company |
| Peter H. Kaskell | Olin Corporation |
| Russell J. Parsons | Borg-Warner Corporation |
| John A. Stichnoth (alternate designated) | Union Carbide Corporation |
| Charles E. Welch | E. I. du Pont de Nemours & Company |

GUESTS

| | |
|---|---|
| Robert E. Anderson | American Petrofina, Incorporated |
| Ray W. Brown | Mobay Chemical Corporation |
| Albert C. Clark | Manufacturing Chemists Association |
| Don A. Goodall | American Cyanamid Company |
| Taylor W. Hanavan | E. I. du Pont de Nemours & Company |
| Richard Millan | Continental Oil Company |
| William M. Stover | Manufacturing Chemists Association |
| John T. Subak | Rohm & Haas Company |

The meeting convened at 12:20 p.m. with chairman Putzell presiding.

1. Minutes of the January 6, 1977 Meeting With the addition of a notation that the Secretary will supply the committee members with copies of correspondence, together with the basic insurance policy provision, relating to MCA's liability coverage concerning its safety publications; and Mr. Stover will keep the committee informed of Arab boycott and product liability developments; and with the elimination from item 5 of the reference to certain matters as inappropriate for MCA involvement, the minutes were approved as distributed.

2. Activities of MCA's Government Relations Committee Chairman Goodall advised that MCA is setting up ad hoc task forces on major legislative issues patterned somewhat on that relating to toxic substances. He also remarked that following Board approval, his committee is developing a program designed to enhance the grassroots communications effectiveness of our member companies with respect to legislative issues pending before Congress. The Congressional Relations Committee also will hold a monthly legislative briefing breakfast for Washington representatives to better inform member companies of what is going on.

3. Activities of the Legal Affairs Subcommittee of MCA's Chemical Regulations Advisory Committee (CRAC) T. W. Hanavan, Du Pont Senior Attorney, Environmental Health, reviewed the MCA/EPA interpretative differences concerning key elements of Section 8(e) of the Toxic Substances Control Act which requires that EPA be informed immediately of information which any person who manufactures, processes, or distributes in commernce obtains and which 'reasonably supports the conclusion that a substance or mixture presents a substantial risk of injury to health or the environment.' He also called to our attention the fact that:

(a) A submission that is made pursuant to Section 8(e) and categorized as a substantial risk is an admission which can serve as a basis for Section 6 regulatory control rulemaking or an imminent hazard proceeding under Section 7. He stated that there was nothing in the statute that required such submission be so identified and that the information could be transmitted to the Administrator of EPA on an information basis without any Section 8(e) reference or categorization.

(b) For programs involving intercorporate exchanges of toxicity information in order to determine testing needs, the obligations of Section 8 should be clearly understood before any information is exchanged because toxicology information possessed by one company may be of no particular significance but may raise Section 8(e) reporting problems with respect to the recipient.

The Secretary was supplied with three background documents for reproduction and distribution to the committee. Mr. Hanavan was requested to keep the committee abreast of developments.

4. Mr. Krumrei's Remarks Concerning Regulatory Reform Presented at Board Meeting Following discussion, Mr. Hanes volunteered, together with Messrs. Wyer, McNamee, and Marcus, to put something together and circulate it to the Committee for discussion at the next meeting.

5. Proposed SEC Regulations on Disclosure of Questionable Corporate Payments It was the consensus, following discussion, that this matter, while of interest to member companies, was not so peculiar to the chemical industry that the Association should comment.

6. Report by Counsel Mr. Barackman reported that: the role of MCA in the development of regulations under TSCA was approved by the Board; the resolution supporting legal foundations was approved by the Executive Committee at its February meeting and will be presented to the Board at its March meeting; MCA has agreed to a settlement in the Arnstein case with a cost to MCA of $2,000; he would distribute to the committee a copy of Mr. Driver's report to the Board concerning the "First World Congress on Product Liability;" MCA has been named as a defendant along with ten others in Acevedo et al vs. American Smelting & Refining et al, a case involving employees of National Can and concerning allegations similar to the Arcell case; and that the Executive Committee had approved the preparation by outside counsel of an amicus brief on behalf of MCA in Rohm & Haas v. Dawson Chemical et al.

Mr. Marcus reported that the deadline for filing in the Rohm and Haas case had been extended to March 21 and that John Pickering is leading the preparation of the amicus brief.

7. Additional Matters

7.1 MCA Conference on Corporate Compliance with OSHA and EPA Regulations Mr. McNamee reported on the status of arrangements for the conference scheduled for May 5, 1977, at the Stouffer National Center Inn, Arlington, Virginia, and distributed to those present the flyer which had been prepared for mailing.

7.2 EPA Advance Notice of Proposed Rule Making - Financial Assistance to Participants in Agency Proceedings Mr. Sigman distributed a copy of his letter of February 8, 1977, recommending a response to the advance notice. Following discussion, it was agreed that MCA should take a position. Mr. Sigman volunteered to prepare same and supply it to the Secretary for distribution to the Committee for their consideration. Meanwhile, Mr. Wyer would check with the CRAC to see whether they were planning to respond.

7.3 LAC Meeting at The Greenbrier Scheduling of the June meeting of the Committee in connection with the Association's annual meeting at The Greenbrier was discussed. Mr. Wyer undertook to circulate something on this question to the committee for their consideration.

7.4 Arcell Case Mr. Putzell reported that the Board approved the LAC recommendation authorizing local counsel to explore possibilities of settlement.

8. Next Meeting The next meeting of the LAC will be a luncheon meeting commencing at 12:00 noon, at the law offices of Wilmer, Cutler & Pickering, 1666 K Street, N. W., Washington, D. C., April 7, 1977.

The meeting adjourned at 2:55 p.m.

Bruce M. Barackman

Bruce M. Barackman
Secretary
Legal Advisory Committee

Minutes subject to approval
March 24, 1977
BMB:jb