

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

PRESENT

Brian D. Forrow, Chairman
R. C. Burroughs
James H. Hanes
Charles S. Maddock
Bernard J. McNamee
Neil R. Mitchell
Donald P. Walsh
James I. Wyer

Allied Chemical Corporation
Olin Corporation
Dow Chemical U.S.A.
Hercules Incorporated
Hooker Chemicals & Plastics Corp.
Velsicol Chemical Corporation
Shell Oil Company
American Cyanamid Company

Bruce M. Barackman, Secretary
Robert Compton (alternate for Mr. Mayne)
Robert A. Hammond, III, Outside Counsel
(item 3 of minutes)
John H. Pickering, Outside Counsel
Robert E. Suggs (alternate for Mr. Longman)

Manufacturing Chemists Association
Ashland Oil, Inc.
Wilmer, Cutler & Pickering
Wilmer, Cutler & Pickering
Celanese Corporation

ABSENT

Edwin J. Putzell, Jr., Vice Chairman
Albert A. Eustis
Robert A. Longman (alternate designated)
Frank R. Lyon, Jr.
I. C. Macdougall
Arloe W. Mayne (alternate designated)
E. J. Mooney
Russell J. Parsons
Charles E. Welch

Monsanto Company
W. R. Grace & Co.
Celanese Corporation
Union Carbide Corporation
Stauffer Chemical Company
Ashland Oil, Inc.
Nalco Chemical Company
Borg-Warner Corporation
E. I. du Pont de Nemours & Company

GUESTS

Robert H. Bidwell
William J. Driver (last half of meeting)
Richard Millan
Neil E. Sorapure

Exxon Chemical Company
Manufacturing Chemists Association
Conoco Chemicals
Allied Chemical Corporation

The meeting convened at 10:05 a.m. with Brian Forrow, chairman, presiding.

1. Minutes of the January 8, 1976 Meeting The minutes were approved as distributed.

2. Report on Activities of Special Task Group on Toxic Substances Legislation Mr. Hanes reviewed on-going activities and noted that MCA is addressing itself to what are new bills in the House and Senate with major emphasis on the new S. 776. It was noted that the latter now contains a reverse burden of proof provision as in the original Tunney bill (S. 776). Following discussion it was recommended that Legal Advisory Committee members submit their comments, particularly on the reverse burden of proof issue, simultaneously to their executives who are members of MCA's Executive Committee and to Mr. Hanes for consideration by the special task group. Distributed to those present were: a list of certain toxic substances with existing control authorities identified; a list of pro and con arguments on toxic substances control legislation--both supplied by Mr. Hanes; and an analysis of objectionable provisions of H. R. 10318, supplied by Mr. Walsh.

3. Antitrust Compliance Program A revised draft of the MCA - Antitrust Guide reflecting comments received to date was distributed. Written comments should be submitted to Mr. Hammond by February 20, 1976. It was the consensus that the final form should be approximately the same length as the revised draft; it should include marginal notes forcefully highlighting the various sections; and it should be printed as a separate pamphlet in a size approximating the revised draft. As a legitimate service to small member companies, Mr. Maddock recommended consideration be given to the preparation of a memorandum on antitrust compliance for their guidance.

4. EPA Heptachlor/Chlordane Suspension; EPA "Principles" of Carcinogenicity These items, four and five of the agenda, were combined for discussion purposes. Mr. Mitchell reviewed the status of Velsicol's legal action in response to the suspension by EPA of heptachlor/chlordane for certain uses. Mr. Walsh discussed the EPA "principles" of carcinogenicity vis-a-vis the NCI "principles." Identified as issues in the Velsicol case on the basis of which MCA may wish to consider intervening were: burden of proof; due process re suspension, on the basis of the hearing conducted, of a chemical in use for 25 years; and the "principles" of carcinogenicity--this latter also being the subject of Mr. Walsh's recommendation that a legal memorandum be prepared on judicial notice. Following discussion it was the consensus that further consideration by the Legal Advisory Committee would await a report by Outside Counsel who meanwhile would consult with counsel for Velsicol.

5. Further Meetings The schedule of meetings of the committee for the remainder of the fiscal year was adopted as follows:

Friday, March 5, 10:00 a.m., Washington, D. C.
Thursday, April 1, 10:00 a.m., Washington, D. C.
Thursday, May 6, 10:00 a.m., Washington, D. C.
Wednesday, June 9, 12:00 Noon. White Sulphur Springs W. Va.

The March and June meetings constitute changes in the previously announced schedule. In connection with the June meeting, it is the individual responsibility of each member who plans to attend to make the necessary arrangements through his company executive contact to be included in the company's quota for MCA's Annual Meeting.

6. Additional Matters Vice Chairman Putzell was elected unanimously as chairman of the Committee effective June 1, 1976.

Outside Counsel reviewed the status of the Arcell and Arnstein cases, noting in regard to the latter that discussions are proceeding between plaintiff's counsel and defendants' counsels which may lead to a settlement involving a token amount on the part of MCA.

Mr. Forrow distributed for consideration of the Committee at its next meeting a draft of a memorandum recommending retention by MCA of inside vice president and general counsel.

The meeting adjourned at 11:55 a.m.

Bruce M. Barackman
Secretary

Minutes subject to approval
February 12, 1976
BMB:jb

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