AGENDA
MEETING OF THE MCA EXECUTIVE COMMITTEE
9:00 a.m., Tuesday, September 12, 1978
The Madison, Washington, D. C.
(Executive Chamber No. 1)


3. Budget Recommendations -- Projects
  -- Personnel.


6. Establishment of Special Committee on Tort Law Reform.

7. Chemtrec Information to the Canadian Government's Transport
   Canada via The Canadian Chemical Producers' Association.

MCA EXECUTIVE COMMITTEE MEETING
The Madison, Washington, D.C.
September 12, 1978

Summary

1. **Budget Considerations -- Distribution and Financial Projections**

2. **Labeling of Chemicals -- Significant Chronic Effects**

3. **Waste Disposal -- CHEMICAL WEEK Editorial**

4. **Report of Nominating Committee**
   
   Note: The above subjects were discussed in the Board of Directors meeting of this date and recorded in the minutes thereof.

5. **Budget Recommendations -- Projects**
   
   Approved four requests from the Environmental Management Committee totalling $91,000 to be added to the current budget concerning litigation on regulation of discharges into publicly-owned treatment works, participation in NPDES permit rulemaking for stationary source discharges, intervention in expected environmentalists' suits to compel publication of RCRA rules, and support of the activities of the American Society for Testing and Materials regarding test methods to appraise leaching of waste materials.

6. **Establishment of Special Committee on Tort Law Reform**
   
   Approved establishment of a Special Committee on Tort Law Reform to implement state lobbying activities.

7. **Chemtrex Information to the Canadian Government's Transport Canada via The Canadian Chemical Producers' Association**
   
   Approved the reproduction of certain transportation information for use by the Canadian Government.

8. **Status Report on Metrication Development**
   
   Referred back to staff for further study of a recommendation that MCA support the American National Metric Council target dates for certain metric actions.

9. **MCA/CEFIC Liaison**
   
   Were apprised of plans to meet with CEFIC representatives on October 9-10 which continues the reciprocal meeting program begun in 1976.

10. **Industrial BIO-TEST**
   
   Learned that Industrial BIO-TEST, a research laboratory conducting MCA administered research on trichloroethylene and vinyl chloride, is bankrupt.
CEFIC GUESTS

The following represented Conseil Europeen Des Federations De L'Industrie Chimique (CEFIC) in meetings with the MCA Executive Committee October 9 and 10, 1978:

K. Lanz                        CEFIC Vice President (Hoechst A. G.)
Dr. G. Bunge                   CEFIC Director General
Dr. W. Munde                   Verband der Chemischen Industrie, E. V.
J. Solvay                      Solvay & Cy SA
R. Pennock                     ICI Ltd.
J. Montet                      Rhone Poulenc
K. Berlet                      Hoechst A. G.

J. Dormann                     Hoechst A. G.
C. Hamann                      Hoechst A. G.
The meeting was called to order at 9:00 a.m. by Mr. Donley, Chairman of the Board, who presided in Mr. Henske's absence. There were present:

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

*Edmund B. Frost, General Counsel
John H. Pickering, Outside Counsel
*Bruce M. Barackman, Staff Counsel
and Acting Secretary-Treasurer

By Invitation:
E. P. Blanchard (SOCMA), E. I. du Pont de Nemours
and Company
*E. W. Callahan, Allied Chemical Corporation
*Albert C. Clark, MCA
John S. Coey, Hooker Chemical Corporation
Stephen L. Goldstein, Olin Corporation
*Victor H. Peterson, MCA
*John E. Slavick, MCA
*William M. Stover, MCA

*Present part time only

   After reviewing briefly the actions taken by the Executive Committee at its last meeting, Mr. Barackman reported income approximating $3,809,000 and expenditures of $1,345,000 with assets at the end of the month totalling $9,380,000 of which $56,000 was in cash, $9,318,000 under investment, and $6,000 miscellaneous.

2. Budget Considerations -- Distribution and Financial Projections
   The report presented by Messrs. Roland and Burrell was repeated at the Board meeting later today and is recorded in the minutes thereof. An invasion of reserves versus a special assessment and dues increase was
discussed. The Finance Committee, working with staff, was requested
to present recommendations following a complete analysis of MCA's
fiscal future this year and next with a projection out to four years beyond.
It was suggested consideration be given to lowering the reserve level
presently established at 50% of the operating budget.

3. **Budget Recommendations -- Projects -- Personnel**

Distributed in advance with the tentative agenda were four projects con-
sidered but deferred at the August 8 meeting of the Executive Committee.
For consistency of reference the original exhibit identifications are re-
tained in the attachments. They were approved as follows:

<table>
<thead>
<tr>
<th>Project</th>
<th>Exhibit</th>
<th>Original Amount</th>
<th>Recommended Amount</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Litigation</td>
<td>G</td>
<td>$50,000</td>
<td>$50,000(1)</td>
<td>Increased from $25,000 to $50,000 on recommendation of the Environmental Management Committee, concurred in by Mr. Frost. The total involvement remains as originally presented -- $100,000.</td>
</tr>
<tr>
<td></td>
<td>H</td>
<td>$25,000</td>
<td>$25,000(2)</td>
<td>On recommendation of the Environmental Management Committee, concurred in by Mr. Frost. Funds are needed to prepare for September hearing and October submission of final statement.</td>
</tr>
<tr>
<td></td>
<td>K</td>
<td>$10,000</td>
<td></td>
<td>On recommendation of the Environmental Management Committee. The $6,000 is part one of two parts. It supports the ASTM activity. The $60,000 Hydroscience/Litton part is deferred.</td>
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<tr>
<td></td>
<td>T</td>
<td>$6,000</td>
<td>$6,000(3)</td>
<td>On recommendation of the Environmental Management Committee.</td>
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After convening in executive session, Chairman Donley turned the
meeting over to Mr. Roland for a report of current association activities
and prospective issues of concern and interest to the Executive Committee.
Mr. Roland detailed his preliminary findings concerning the effects of the
recent reorganization of the MCA committee structure and Bylaws changes,
the present relationship of MCA to sister associations in the chemical pro-
ducts industry, some observations regarding the efficacy of the present
committees and task forces as well as staff of MCA, and finally some recom-
mendations in preliminary form which will be considered further as regular
agenda items by the Executive Committee when presented.
5. **Waste Disposal -- CHEMICAL WEEK Editorial** Alluding to the Chemical Week editorial and his response to it, distributed in advance with the tentative agenda, Mr. Roland commented on the ramifications of this complex problem. Messrs. Stover and Callahan presented the recommendations of the Government Relations (GRC) and Environmental Management Committees respectively, followed by the actual experience of a member company as described by Mr. Coey in connection with the Love Canal.

The recommendation of the GRC to appoint a Special Committee on Chemical Incidents, to be implemented by the Chairman of the Executive Committee, was approved.

This presentation, together with the recommendation to establish a special committee, was repeated at the Board meeting later today and is recorded in the minutes thereof.

5-A. **Task Group on Trade** Mr. Stover reported, as a matter of information, the GRC's establishment of a Task Group on the Trade Act of 1974 which would address the issues relating to the act.

6. **Establishment of Special Committee on Tort Law Reform** The staff recommendation to establish a special tort law reform committee to implement state lobbying activities, circulated in advance with the tentative agenda (Attachment A), was approved with the substitution of Mr. Andrew Fink for Mr. Cook of Stauffer Chemical Company and the addition of Mr. Edward Weidlein of Union Carbide Corporation. Mr. Roland was given authority to add additional people as necessary.

7. **Chemtrec Information to the Canadian Government's Transport Canada via The Canadian Chemical Producers' Association** The staff recommendation (Attachment B) to reproduce certain transportation information on file and transmit it for use by the Canadian Government, circulated in advance with the tentative agenda, was approved.
8. **Status Report on Metrication Development**

Distributed in advance with the tentative agenda was an *Engineering Advisory Committee* recommendation (Attachment C) that MCA support the American National Metric Council target dates for certain metrication actions. Following discussion this was referred back to staff for further review of the commercial and legal aspects of the proposed action by the Engineering Advisory Committee, the Distribution Committee and counsel, following which the Executive Committee will consider resulting recommendations.

9. **Administrative Matters**

Mr. Roland advised that Industrial BIO-TEST Laboratories, Inc., a contract research laboratory conducting MCA administered research on trichloroethylene and vinyl chloride, is bankrupt. An audit team under Dr. Bell of PPG has completed a comprehensive audit on behalf of MCA and the sponsoring companies. It appears that little, if anything, of scientific value can be salvaged from badly conducted studies. The matter is being reviewed by counsel who will recommend legal action to be taken if indicated. There presently appears no chance of recovery.

Mr. Donley announced that on October 9-10 the Executive Committee will host representatives from the Conseil Europeen des Federation de L'Industrie Chimique (CEFIC). Details will be circulated by staff. He urged the fullest participation by members of the committee, and raised the question for consideration as to whether members from the equivalent Japanese organization should be invited to a similar meeting.

On behalf of the Nominating Committee, Mr. Donley presented the slate of additional director nominees, noting the deletion of Mr. Hale, for election by the Board. For details see Board minutes of this date. A new nominee from Engelhard Minerals & Chemicals Corporation will be sought.

Signed:

Bruce M. Barackman
Acting Secretary-Treasurer

Certified correct:

Edward Donley, Acting Chairman
MCA Executive Committee
Proposal on Pretreatment Standards

Recommended by: Environmental Management Committee

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<th>Budget Request</th>
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<tr>
<td>Fiscal Year 1978-79</td>
<td>$25,000</td>
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Under the Water Pollution Control Act, as amended, the Environmental Protection Agency on June 26 published final general pretreatment regulations for controlling discharges of toxic pollutants. Effective August 25, the regulations require chemical plants to remove toxic pollutants prior to their discharge to a publicly owned treatment works (POTW). From a survey of member companies, many plants will be adversely affected, and in some instances, corrective steps will be virtually impossible. Even monitoring and analyses requirements will be exorbitantly costly. To prevent full and final application of the regulations, legal action must be undertaken no later than September 24, 1978.

General Counsel will provide specific recommendations and supporting information September 12.

MCA
EC - 9/12/78

*See Minutes of August 8, 1978 Executive Committee Meeting
On August 21, 1978, EPA proposed regulations in the Federal Register (43 F.R. 37078, et. seq.) that extensively revise the existing regulations governing the National Pollutant Discharge Elimination System (NPDES) program. An initial reading of the proposed regulations indicates that the Agency did not substantially modify their draft proposed regulations in light of the lengthy comments MCA submitted on May 11, 1978. The following examples highlight a few of the major policy determinations the Agency has not modified from the positions set forth in the earlier draft of the proposed regulations. These policies will have a major impact on the chemical industry unless substantially revised in the final regulations.

1. The proposed regulations retain a provision that has closed an alleged loophole in the Clean Water Act and the existing NPDES regulations. This provision makes a discharge of any pollutant not specified in the application or expressly authorized by the permit, a violation of the permit.

2. The proposed regulations retain a provision that establishes an extensive list of conditions which are cause for the permitting authority to reopen a permit for modification. This list of conditions is by its own terms not all inclusive and could result in unlimited reopening and modification of permit terms.

3. The regulations have retained a provision that vests discretion in the permitting authority on whether effluent limitations or standards will be required on internal waste streams rather than at the point of discharge.

4. The regulations retain complex adjudicatory procedure for the NPDES program. The procedures, however, raise significant due process issues (e.g., inadequate notice provisions, discretionary limitations on full hearings and cross examination, EPA General Counsel determination of all legal issues raised in an adjudicatory hearing).

*See Minutes of August 8, 1978 Executive Committee Meeting*
A more comprehensive identification of issues will be made at the Environmental Management Committee's September 6, 1978, NPDES Task Group meeting. The task group, with the assistance of counsel, will prepare detailed comments for submittal to EPA by October 20, 1978. In light of the significance of these regulations to the chemical industry, it appears appropriate for counsel to prepare an MCA statement for presentation at the September 21, 1978, public hearing. The public statement would highlight MCA's major concerns with the proposed regulations and discuss the significant adverse economic impact the proposed regulation will have on the chemical industry unless substantial modifications are made to the final regulations.

It has also been suggested that before the end of the comment period (i.e., October 20, 1978) MCA and several other trade associations might schedule a meeting with appropriate EPA officials to discuss industry's concerns with the proposed regulations (i.e., Jeff Miller, Deputy Assistant Administrator for Water Enforcement, and Len Miller, Director, Permits Division). Such a meeting might serve to acquaint EPA's decision makers with industry's positions and provide industry an opportunity to persuade the Agency as to the legitimacy of the technical and legal bases for these positions.

MCA
EC - 9/12/78
Exhibit K*

Proposal on Solid Wastes (RCRA)

Recommended by: Environmental Management Committee

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<th>Budget Request</th>
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The Resource Conversation and Recovery Act (RCRA) requires overall control of solid wastes identified as hazardous, including the transport and ultimate disposition to prevent surface water contamination. Regulations were due in late 1977, but so far only transportation regulations have been proposed. On June 21, 1978, the Public Citizen Litigation Group served notice to EPA of their intent to file a citizen's suit to seek prompt issuance of the regulations. Since then, four other environmental public interest groups have served similar notices of intent.

At a public hearing September 15, EPA plans to present for public discussion their program schedule for promulgation of RCRA regulations. Reaction of the public interest groups to that schedule is expected to trigger the threatened filings. Intervention by MCA will be necessary to assure issuance of acceptable regulations under reasonable and timely conditions.

General Counsel will provide specific recommendations and supporting information on September 12.

MCA
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*See Minutes of August 8, 1978 Executive Committee Meeting
Proposal on Solid Waste Studies - Criteria Evaluation and Methodology

Recommended by: Environmental Management Committee

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<thead>
<tr>
<th>Amount Requested</th>
<th>Commitment desired by</th>
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<tbody>
<tr>
<td>Fiscal Year 1978-79 $66,000</td>
<td>September 12, 1978</td>
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Under Section 3001 of the Resource Conservation and Recovery Act, EPA must establish regulations setting forth criteria and testing methods for determining whether a solid waste would be designated hazardous. The EPA proposed test protocols would require separate determinations regarding ignitibility, flammability, radioactivity, chemical reactivity, infectiousness, toxicity, including mutagenic activity. The relevance of those tests is unsupported by meaningful research or technical studies.

Preliminary results from isolated member company tests indicate that many materials considered innocuous (examples are fly-ash, asphalt paving, or containerboard) would fail one or another of the tests and be classified hazardous. The consequences of misclassification are far-reaching. For the chemical industry, classification of waste as hazardous would induce disposal costs in the range of $80 to $100 per ton, whereas nonhazardous materials can be put into landfills at a cost of $15 per ton. Moreover, the number of class I landfills available to accept an enlarged volume of hazardous waste is strictly limited. An overtaxing of the capacities of these landfills would lead to the opening of new sites at locations remote from urban and industrial centers, if they could be established.

Simple classification methods are needed to establish reliable, rapid, low-cost methods for determining if a solid waste should be treated as hazardous. Critical analysis of the EPA protocols also is necessary to this process. A two part program at a total cost of $66,000 is recommended.

*See Minutes of August 8, 1978 Executive Committee Meeting
(a) The American Society for Testing and Materials (ASTM) Committee D-19.12 has developed test methods for appraising the leaching of waste materials. Round-robin collaborative tests of their simplified procedure are underway. A contribution of $6,000 is recommended (MCA would be one of a group of organizations making such a contribution) to support the ASTM Committee D-19.12 replicated analyses of six waste materials using three extraction procedures. These procedures aim for simplicity and reproducibility without compromising health effects determinations.

(b) It is proposed to engage Hydroscience, Inc. to conduct toxicity tests and Litton Bionetics to conduct genetic activity assays, using the proposed EPA protocols. This phase of the program is estimated to cost $60,000. Results would be made available to EPA and others to demonstrate needed modifications in the EPA test protocols.

The program is expected to be completed ten to twelve weeks after authorization.

MCA
EC - 9/12/78
Special Tort Law Reform Committee

On February 17, 1978, the Special Committee on Product Liability submitted its final report to the Executive Committee on "the product liability problem." The Committee report highlighted the need to form a new Special Committee on Tort Law Reform composed of member company attorneys, with an assigned staff attorney, to concentrate its efforts on State product liability and tort law reform legislative developments.

In order to implement the recommendation to establish a Special Tort Law Reform Committee, MCA's General Counsel has solicited from member companies and obtained the services of the following individuals:

Marc Nelson, Chairman E. I. du Pont de Nemours & Company, Lawyer - Washington Office
Jon E. Andren The Dow Chemical Company State Lobbying Expert
Stephen A. Block Celanese Corporation Lawyer
Francis E. Cook Stauffer Chemical Company Washington Representative
Wells Denyes Eastman Chemical Products, Inc. Lawyer
James Mahan Air Products and Chemicals, Inc. Lawyer
J. R. Taylor ICI Americas Inc. Liaison with Insurance Committee
W. R. Wayman Shell Chemical Company Lawyer

Subject to Executive Committee approval, these individuals will comprise the Special Tort Law Reform Committee. MCA's General Counsel is interviewing applicants for the legal position that will provide staff services to the Special Committee.

MCA
EC - 9/12/78
Transport Canada, a division of the Canadian Government, plans to establish a 24-hour emergency information center similar to CHEMTREC in form and operations. Through The Canadian Chemical Producers' Association (CCPA), Transport Canada has requested information from the CHEMTREC files to facilitate the organization and operation of their emergency center.

The future of the Transportation Emergency Assistance Plan (TEAP), operated by CCPA, is unknown.

When CHEMTREC was established, reference cards on individual chemicals were prepared using information submitted by manufacturers (member companies originally) following a format and response data prepared during development of the MCA Transportation Hazards Information (THI) program, proposed to DOT in December 1969, but never adopted. Also, information on some chemicals was prepared by The Chlorine Institute, L-P Gas Association, and American Petroleum Institute.

In addition to the chemical reference cards, similar files have been prepared on trade name chemicals and tank car reporting marks. The tank car reporting marks are important in facilitating identification of car owners and, subsequently, the name of the shipper and the chemical being transported can be determined. The trade name file includes proprietary information to the extent that it provides identification of specific chemicals, composition of mixtures, and some specific health and handling information.

It is recommended that, through CCPA, Transport Canada be provided the following information:

(a) Copies of reference cards on individual chemicals. This information is publicly available. However, the names of manufacturers will be deleted because they are not pertinent to the Canadian operations and are listed in the "Directory of Chemical Producers" published by Stanford Research Institute. CHEMTREC could be contacted for additional information in specific instances when Transport Canada deems it necessary.

(b) The tank car reporting marks file. This information could be assembled from public sources, but it would be a simple matter to reproduce and submit our information.
It is not intended to release the individual trade name cards. If specific information is needed, Transport Canada could contact CHEMTREC for pertinent handling details in much the same manner as we now operate.

It is proposed that MCA copy the individual chemical reference cards and tank car reporting marks file, eliminating information not pertinent to the operation of Transport Canada's emergency center. This project is estimated to take three weeks at a cost of less than $2,500 U.S. About 4,000 cards need to be copied. For similar services, MCA charges $10/card and $50/hour to cover out-of-pocket costs for copying. MCA would be reimbursed for any costs involved.

The CHEMTREC Review Group and Distribution Committee concur with the foregoing staff recommendations.

While CHEMTREC file information normally is not copied and distributed, on one occasion (November 1971), MCA provided copies of the chemical reference cards to the U.S. Department of Transportation at their request.

MCA  
EC - 9/12/78
METRICATION

Within MCA, the Engineering Advisory Committee has been responsible for following metrication developments during the past several years. Upon recommendation of the Committee, MCA continues to financially support (presently $350/year) the American National Metric Council, formed in 1973. Representatives have served on behalf of MCA in the Chemical and Allied Products Sector Committee since its inception. More recently members of the former MCA Chemical Packaging Committee represented their companies on the Chemical Packaging Subcommittee of the Sector Committee.

To date MCA has not made a recommendation to the membership on the extent or timing of metric conversion in the chemical industry. The decision of each company is determined primarily by marketing considerations. Factors more directly related to association activities such as plant equipment engineering specifications, transportation equipment and packaging are secondary.

The Engineering Advisory Committee has made the following recommendation:

"The Engineering Advisory Committee perceives a lack of direction in coordination in metric conversion in the chemical industry. Since metric conversion, in the end, results in certain engineering changes to plants and related facilities, it is imperative that certain decisions in metrication be addressed. As a basic premise, it is agreed that conversion of most equipment for transportation of bulk chemicals (i.e. tank cars, barges, ships, cylinders, etc.) generally will not involve physical changes to the equipment, whereas conversion of packages (i.e. bottles, bags, pails, cartons, and drums) for transportation of most chemicals generally will result in physical changes to the package.

Therefore, the Engineering Advisory Committee recommends that MCA formally support the American National Metric Council suggested target dates for shipping, billing and receiving in hard metric sizes for the chemical and allied products industries, as follows:
Bulk and Packaged Chemical (For Industry)  December 31, 1980

Formed Products (Plastics, Films, Fibers)  December 31, 1980

Packaged Chemicals (For Consumers)  December 31, 1982

The Distribution Committee also recognizes that marketing considerations override other considerations in metrication decisions. The effect on distribution activities of complying with the ANMC timing recommendations is under study, with a report due at the September 28 committee meeting.

The gradual conversion to metric units has been going on in segments of our industry for many years based on metrication of chemical packages for export shipments and the use of machinery and equipment made to metric dimensions in other countries. It is understood that some chemical companies have undertaken formal programs for use of metric units in package and bulk shipping and billing, and concur in the time schedule recommended by the ANMC. However, due to a lack of convincing evidence of immediate benefit to offset conversion costs and the fact that marketing considerations are predominant, timing of such a program will differ with individual company operations.

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MCA
EC - 9/12/78