FILE MEMORANDUM August 18, 1972

MCA Meeting of August 17, 1972
Nelson Bills et al

Meeting held at MCA Washington Office pursuant to M. M. Hoover's letter of August 10. Meeting attended by C. F. Hagan, G. W. Ingle, M. M. Hoover and the writer.

(1) With respect to 37 FR 16407 on revision of Prior Sanctions 121.2000 of Food Additive regulation, Mr. Hoover will prepare comment to object only to omission of administrative safeguards for the new general provisions, i.e. opportunity for comments on proposals and for presentation of any new data which may be relevant to a proposed revision of a prior sanction, and opportunity for public hearing.

(2) On environmental impact statements, Mr. Hagan will prepare draft comments to the effect the FDA has no authority under the Act to require environmental impact analysis. It will be suggested that, where environmental impact is "significant", FDA can request assistance of the petitioner which probably will be given freely. It was also the opinion of the group that food, food additives and drugs are not likely to produce significant environmental problems, except, perhaps, in manufacture wherein any environmental pollution would be under control of the Environmental Protection Agency.

As an aside to solution of environmental disposal problems, G. W. Ingle mentioned that one of the items holding up acceptance of the plastic whiskey bottle by the Internal Revenue Service is just such a problem. IRS, having no expertise in this area, has come to the plastics industry for assistance, and it now appears that an outside contractor must be engaged to develop facts necessary for the environmental impact statement required by the law. Ingle's point is that industry may be better equipped than most government agencies to anticipate impact.

(3) Mr. Hagan will prepare draft statement to be proposed for submission to the McGovern Select Committee hearings on Nutrition and Human Needs of which Senator Nelson is a member and at which the principles underlying his two bills, S76 and S3163, will be debated. These hearings were planned for last week, but it now appears that they cannot be held before the latter part of September. (See Food Chemical News of July 17, 1972, pages 15-16, for description of hearing coverage.) It is understood that the same planned set of witnesses will appear and there may not be opportunity for MCA to testify, but written comments will be accept d and considered. Th s are not legislative hearings.

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The general approach to S3163 will be that: There is no need for such a bill; FDA presently has authority to prescribe protocols for testing; and there has been no indication that data presented to FDA as support of food additive petitions is not valid. An undesirable feature of the proposed bill is that FDA would let contracts and also be the reviewer - and possibly not be as critical of results from contractor of their own selection.

With respect to new tests on old additives and deletion of the GRAS list (as proposed in S76), it will be suggested that the scientific expertise available should be reserved for the solution of more important problems.

Nutritional aspects of the bill will not be commented upon. This will be left to the Grocery Manufacturers Association (GMA).

The addition to Section 402(c) of the Act is a particularly onerous section of the bill because it would substantially eliminate the use of all color additives in food since none purport to be necessary for the maintenance of nutritional value or preservation of food. However, scientific defense of color additives is not strong. Colors do serve to identify flavors and do make food attractive, but obviously there must be no harm from their use, a point that is being questioned by consumer advocates.

(4) Dr. Jack Frawley of Hercules will be asked to update comments on S76 which is a duplicate of S.3295 in the 91st Congress and reviewed by an MCA subcommittee at that time. A major decision is whether to advocate outright repeal of the Delaney clause or insert a proviso to permit the Secretary to establish insignificant level of intake for any biological effect. The decision here is political, since FDA has that authority to bar any deleterious substance.

W. A. Knapp

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