Occupational Safety and Health Committee

Report to

CMA Board of Directors
January 11, 1982

Good morning. Welcome to occupational safety and health. I am both pleased and privileged to be back to report to you again -- as my term was extended for another year as Chairman of the Occupational Safety and Health Group. The Committee is alive and well -- and we hope -- functioning more energetically and effectively. Last year, I reported to you that we intended to reestablish our Committee to a position of leadership in the occupational safety and health community and become a force to which the agencies and other associations turn for industry representation and cooperative efforts. We are achieving our goal and must continue hard work to sustain our position. We have again revised our task group organization by consolidating several health activities into one major group and have added two, expanded scope of another while sunsetting yet another, leaving 12 in operation. We also still maintain liaison with three other groups in CMA.

At the outset, let me confirm an impression or alter a misconception, whichever the case may be, relative to regulatory activity within the occupational safety and health community. If any of us thought that life would be easier and the pace slower under a new and more friendly administration in Washington -- be advised -- it is not so. As you all know, regulatory reform under Vice President Bush is real, and requires, and is getting, our input and support. Activities have involved the establishment of priorities within OSHA for review of those regulations that were in various stages of proposal by the previous administration. Shortly after we met in Florida last year, the outgoing Eula Bingham Administration published their now famous series of "midnight regulations" which have provided much of the raw material for this review. The administration of Thorne Auchter, the new Assistant Secretary of Labor for OSHA, has set a timetable of 1½ to 3 years to complete this review and final promulgation of the rules involved. During this period of time only a few, if any, new regulations will emerge and there should be no real surprises. The new Agency administration is accessible and is one with which is is easy to communicate and work.

After almost a year of operation, the new administration at OSHA summarizes their approach by emphasizing their goals in three areas: attitude, program mix and management. They pride themselves for having greatly minimized the adversarial posture with industry. They feel that their program includes a blend of sensible enforcement, effective standards development and consultation for education and training. And finally, Thorne Auchter characterizes his management approach as one of the hands on variety and plans to develop indicators that will

measure the performance of the enforcement regions as well as the Agency as a whole. In summary, Auchter is dedicated to and is practicing administrative reform of the Agency to reduce injuries and illnesses through performance standards in rulemaking, cooperation in enforcement and by giving power back to state programs and responsibility to employers.

Many of the accomplishments of the Occupational Safety and Health Committee are recorded in our annual report and need not be repeated in detail here today. Some areas of our activity however, are worthy of summary.

OSHA review of proposed, final, stayed or withdrawn published regulations required the preparation of a number of formal comments for submission to represent CMA's position to the Agency. We commented on the trade secret aspects of the medical records regulation calling for liquidated damages for companies where violations are proven, and we have taken a lead role in presenting suggested revisions for the hearing conservation amendment. We updated the ANSI Z 129 Labeling Standard, for which CMA is the secretariat, and launched it on its journey for panel approval. Two of our members continued in active service on the Hazards Communication Special Committee dealing with labeling while I represented the OSH Committee with the Hazards Communication Special Committee for CMA, in testimony before the Gaydos House Labor and Education Subcommittee on Health and Safety that was investigating the "Labeling - Right-to-Know" issue.. We also sponsored the right-to-know panel presentation at the Semi-Annual Meeting in November.

There has been a late breaking development here. As a result of an OMB procedure dealing with the paperwork reduction act and a clever CMA Legal Department, we obtained a copy last Wednesday of the Hazard Communication proposal that is still under review at OMB.

The standard proposal applied to SIC Codes 20-39 and covers acute and chronic hazards, and is due to become effective 1 to 3 years after final publication in 1983. Manufacturers are allowed to make their own hazard evaluation following suggested guidelines and not definitive specifications. Material Safety Data Sheets are required and must be delivered to customers on initial shipment, employees and designated representatives on request. Labels are required on all containers in a plant, but not pipes while placards are allowed in some instances. Each workplace must have a training and communication program for the employees and lists of chemicals in the workplace must be available. Provisions are made for protecting trade secrets, but there are concerns. Requirements to list hazardous ingredients in mixtures down to 1% also raises concerns.

CMA has filed comments with OMB and will file a more detailed critique with OSHA.

Agency personnel claim that OMB is seriously considering not releasing the proposal for publication in order to minimize the output

of regulations from the Reagan Administration. If this happens, the states and municipalities will redouble their efforts to proliferate the scene with laws and regulations far more stringent than the Federal proposal. This intent has been forcefully represented to OSHA by labor organizations.

CMA has written OMB and restated its support of a federal standard. I would personally like to make a plea to each one of you in this room who have contacts in the White House and OMB -- to please urge them to support the issuance of the Federal proposal to blunt the efforts in the states. We feel we can resolve many of the regulation requirements that are unpleasant with Agency personnel during the comment and review period. OSHA personnel have asked for this support: your help will be appreciated.

To continue with 1981 -- our cooperative efforts with NIOSH resulted in what appeared to be a successful and well received symposium on control technology in the chemical manufacturing industry held in Philadelphia last March. Our physician training task group is co-sponsoring a pioneering course in cooperation with the American Occupational Medical Association (AOMA) to inform private physicians and other health professionals about occupational medicine. Several other representatives participated in an IRLG workshop concerning guidelines for reproductive hazards in the workplace. Our Committee representatives also appeared at several OSHA hearings to present comments on issues such as hazardous materials and lockout and tagging. Some of the other responses by the Committee included the following shown here: to appraise all Association members about the status of occupational safety and health regulatory issues, the Committee sponsored an informational meeting several months after the new Administration took office. All in all, the number of member company personnel participating in our activities has increased about 50% over the past year and is expected to increase further in 1982.

Within a week or two of his Senate confirmation as the new OSHA Assistant Secretary, Committee and CMA staff personnel called on Thorne Auchter and presented verbally, and in writing, our recommendations for -- OSHA administrative reform -- which we perceived to be the number one priority for the Agency. We stressed the need to reduce adversarial relationships, expand consultive services, target inspections, encourage voluntary compliance practices, prepare performance oriented standards, combine engineering controls with administrative controls and protective equipment, reduce the oppressive application of General Duty Clause citations and also consider technical feasibility, cost and risk assessment in standards preparation -- and others. Not that all of these suggestions were terribly new with us, but OSHA has taken action -- favorably, in every one of the areas mentioned.

We later followed up with more detailed recommendations to guide the Agency to target their compliance and inspection efforts in high hazard industries based on performance criteria. We recommended that

total recordable injury and illness data be used instead of the LWDR (lost workday rate) data since the latter is influenced by judgment calls and workman's compensation awards. The system we proposed would employ industry data by workplace within a given OSHA area permitting individual plant site targeting within either hazardous or non high risk industry. Although the Agency has not initiated targeting action for health inspections, as they have for safety inspections, an idea was presented for health targeting that will be pursued as they develop their plans further. Such a plan would include criteria that a given plant location must meet before OSHA inspectors would leave the site without conducting an inspection. The quality of a location industrial hygiene program, monitoring records and compliance to TLVs etc., are features included in such a plan. For what it is worth, an article dealing with the matter of OSHA reform by me was published in the Journal of Commerce in connection with our Sami-Annual Meeting issue.

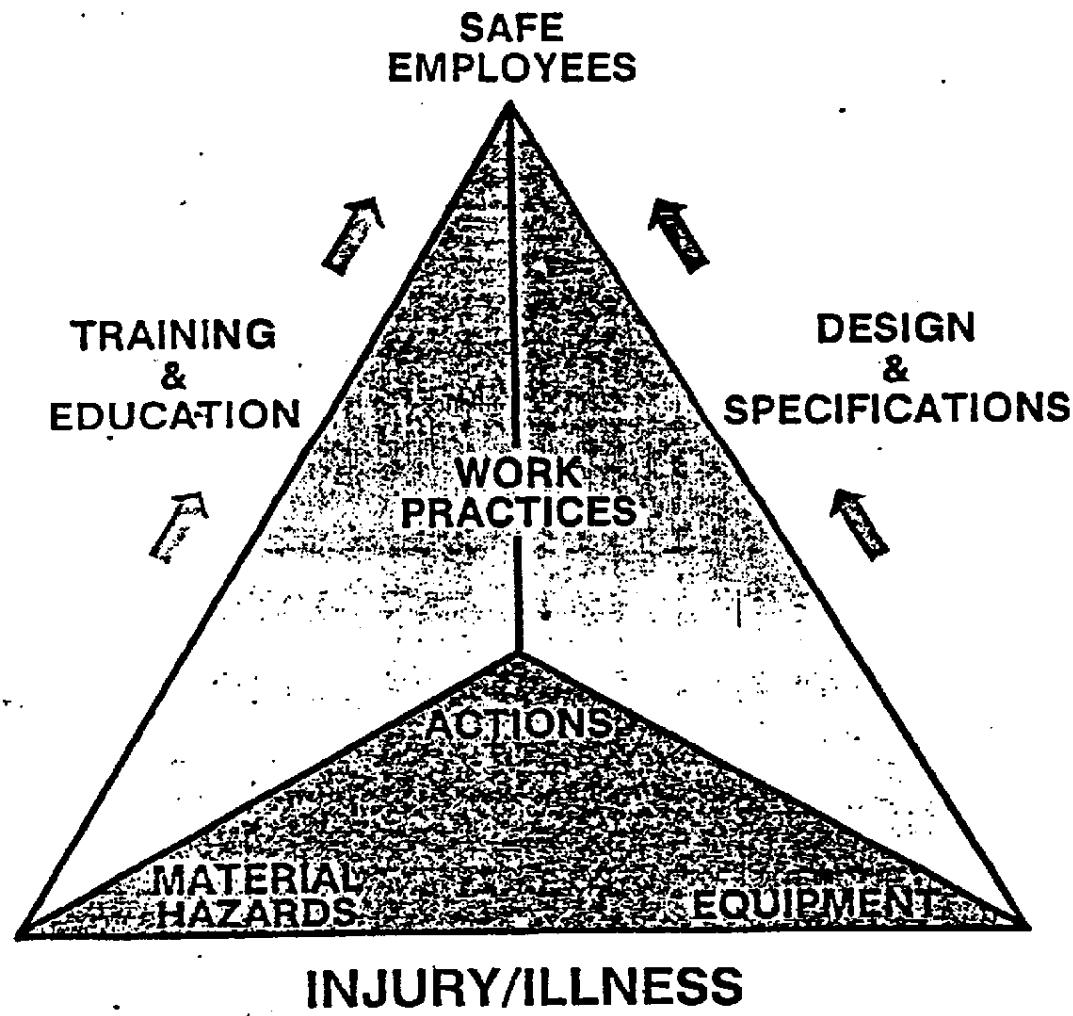
Our OSHA Reform Committee has now been requested to develop a laundry list of legislative reform issues that should eventually be considered if it appears that changes in the law are possible to engineer. We have communicated our thoughts to OSHA management and have been urged not to push for legislation for at least one more year. The new administration wants one full year to evaluate the successful features of their administrative reform program before selecting areas to be etched in legislative stone. Sam Pickard representing the CMA OSHA Legislative Affairs Group has been so informed of these discussions and plans.

Our Safety Standards Committee has developed an innovative new approach to the preparation of effective performance standards that also has been formally presented to OSHA. The solution is for OSHA to add the dimensions of employee training and safe work practices to their issues and at the same time, reduce the dependency on detailed equipment specification. The value of this balanced approach is illustrated in the pyramid - the base of which represents the basic components of any workplace - equipment, materials and worker's actions. Without adequate safeguards a worker's interaction with these elements takes place at the base of the pyramid and injuries an illnesses can result. Three mechanisms are needed to raise the worker from the plane of injury:

- the first - is safe equipment design and specifications
- the second - is training
- the third - is safe workpractices such as tank entry, lock out, etc.
- the result - safe employees

This system is employed in most of our member company safety programs. Our industry has today proven to be first in safety performance according to the National Safety Council, and we feel strongly that our work

WORKPLACE RELATIONSHIPS



practices favorably affect our position, and would so influence the rest of the manufacturing industry covered by OSHA if they were equally employed. OSHA has shown a keen interest in the techniques and will work further with us to understand and apply it to the task of preparing safety and health standards.

Although we do find the new OSHA Administration accessible, cooperative and easy to work with, we have a few concerns:

1) We are concerend over the dedication of the Reagan team to push more and more occupational safety and health program activity to the states. We are concerned over the proliferation of regulations in many states covering the same issue, such as the right-to-know one. We are federalists when it comes to regulations and do not become states "rightists" until it comes to compliance. We have communicated our views forcefully to the Administration.

2) We are concerned about OSHA's STAR program (Share the Accountability for Regulation), the Project Build and the CEP (Cooperative Experiments Program) - all designed to encourage joint workplace labor and management safety and health committees. Here again, we have communicated our reasons for concern to OSHA management and will continue to offer alternate approaches.

3) We are concerned over the general morale of the Agency at the lower working levels. A new, eager and quite capable management team exists today while rather severe reductions in staffing have taken place in the main workforce. At these levels, there is frustration over the gigantic task ahead with too few hands to produce. The ideology of this group resembles that of the old Bingham Administration more than that of the new one. So far - they appear to be manageable.

4) Our ultimate concern is for the success of the new OSHA. Contrary to what you read in the Washington Post, the Agency is not inactive or being totally ravaged. Industry cannot afford to let up in their safety and health programs -- we must perform and prove that the new balanced approach at OSHA is effective in reducing occupational injuries and illnesses - or - I am certain, that we will see a return in future administrations to the tough police style that characterized OSHA during the last four years that were dominated by labor influences. So - in 1982, the Occupational Safety and Health Committee will work hard to continue to improve the safety and health performance of our member companies and help to make this OSHA Administration successful. We will promote the programs of the successful companies to make the improvement happen. Each of you gentlemen would do your companies and your industry a service by returning home and urging even greater efforts to improve safety and health performance.

We will remain a leader and significant source for the Agency to call upon to develop scientific and regulatory positions on key issues.

OSHA has confided that these issues for the next one to three years will include -- lead, cotton dust, noise, labeling, medical records access, cancer, protective equipment vs. engineering controls, qualitative vs. quantitative respiratory fit testing, laboratory safety and some specific substances such as formaldehyde, ethylene oxide, ethylene dibromide, chromium, arsenic, nickel, cadmium and asbestos. ANPRs are expected by the end of January that will further reopen the record and provide an opportunity to recommend additional changes for improvement in noise, medical records, and respirator standards. Here again, there has been a late development. The OSHA Cancer Policy ANPR was published in the Federal Register on January 5. Comments are requested on the current policy for identifying, classifying and regulating occupational carcinogens and including the staying of the part of the policy that calls for candidate and priority list publication. AIHC has assumed the lead role on this issue in the past. We -- CMA -- will work with them to provide the best technical input here and to be sure that we maximize -- not duplicate our efforts and manpower. I have already discussed this relationship with Bill McCarville, who is Chairman of the AIHC Scientific Committee.

CMA's participation is necessary to maintain consistency in industry's advocacy at OSHA as well as the other agencies investigating the cancer problem. Participation is essential to preserve our legal standing to challenge the final regulation on behalf of either the OSH Committee or a CMA special program.

Safety regulations will include hazardous materials, marine terminals, walking and working surfaces and a few others. Our task groups are active with the Agency to develop reasonable positions on the issues as they address them - one by one.

Also in 1982, we will continue to invite Agency management personnel to our Committee meetings to promote cooperative efforts and understanding.

We will continue to maintain old and develop new personal contacts within OSHA and NIOSH so that we can avoid major surprises and promote our positions effectively.

We will work to develop a health targeting system at OSHA. We will promote our injury/illness data approach to overall safety inspection targeting.

We will continue to promote the performance standard concept and will provide examples to the Agency for Health as well as safety.

In 1982, we will discourage formal joint/labor management committees in the workplace. We will offer alternatives to the STAR program and others.

We will discourage preparation of regulations at the state level and encourage adoption of federal requirements while promoting state compliance control.

Our long range planning for each of the issues with which we deal, must include a three year thought process as well as a seven more years approach. We must position ourselves with respect to these issues in such a way that a possible change of administration would not totally destroy the effectiveness of the work we will be doing..

And, finally, we will encourage each of our 12 task groups to work hard to accomplish their specific objectives in the short term, and promote the image of CMA and the chemical industry. And on that subject, to promote our industry image and to recognize and advertise our number one safety rating, the Occupational Safety and Health Committee would like to increase the number of annual Lammot du Pont Safety Award categories from two to three, so that the intermediate size companies can participate and compete equitably in the program with the large and small ones. We would like you to approve this change in CMA's Awards Program and at the same time, encourage your company to participate, if you are not, since only about one-third of our members submit data for consideration.

Ladies and gentlemen, I have not dwelled upon the specifics of the positions we promote in noise, or medical records, or labeling as much as I have tried to give you a feel for the approach we take in this new atmosphere in Washington. We are promoting education and training -- philosophies and reform procedures and policies as strongly as the technical positions we favor in a specific regulatory proposal. The new Administration is green and inexperienced but dedicated, hard-working and eager for help and guidance. They will be short handed as budget cuts are felt throughout government, but we will work with them and try to show them how they can best maximize their resources to achieve our mutual goal of a healthier and safer - injury and illness-free workplace.

In conclusion, I would like to say that I have met a lot more of your people over the past year and have been much impressed with the quality and pleased to see the increased interest in taking part in our Committee activities. It is most important that we not relax and reduce our advocacy during the next three years of this friendly Administration in Washington. We have a unique opportunity here to revise and put in place some rules and regulations that we can live with rather than coast these three years only to be blitzed vindictively again in the future. Thank you for your help and keep the good ones coming.

CMA
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POLICY FOR REGULATORY IMPACT ANALYSIS OF
HEALTH, SAFETY AND ENVIRONMENTAL REGULATIONS

Regulatory agencies should perform regulatory impact analyses to make government decision-making processes more effective.

Improved analysis at the beginning of a regulatory proposal will allow workable and effective rules to be in place sooner. Scientific, technical and economic issues should be examined before important decisions are made.

The following Guidelines are recommended:

- Regulations should be adopted when (1) a need for regulation has been demonstrated, (2) costs bear a reasonable relationship to benefits, and (3) the most cost effective approach is adopted.

  Regulations should be adopted only where they will significantly reduce risk. Regulations should not be used to induce small changes or to reduce already minor risks. Justification for a regulation should be based on scientific data that clearly identify the hazard to be reduced and show to what extent the regulation will reduce the hazard.

  The anticipated cost of a regulation should include both the direct costs of complying with it and its indirect costs throughout the economy. Similarly, the benefits to be included are the direct and indirect benefits of the regulation.

  Finally, a regulation should take the least burdensome approach that will achieve its goals. Resources are wasted whenever a regulation imposes requirements not directly related to its objectives.

- Regulatory impact analysis should not include quantification of intangibles in monetary terms.

  Regulatory agencies should not place a dollar value on human life, other health effects such as pain and suffering, or aesthetics. Such quantification is not meaningful to society and the use of a mechanistic cost/benefit ratio for decision-making would be unwise. Regulatory impact analysis should provide decision-makers with as much information as practicable to ensure that regulations express human as well as economic values.

- Regulatory agencies should use "good science" in defining both the need for a regulation and the benefits in terms of risk reduction it will provide.

  Agencies should use quantitative risk assessments that are based on substantial evidence. Unsupported assumptions or seriously flawed scientific studies form a poor basis for regulation.

  Analyses should be reviewed by independent scientists as well as by agency scientists to ensure that the data are valid and that interpretations are correct.

- Regulatory agencies should evaluate alternative approaches to regulation.

  Regulatory agencies should analyze the potential costs and benefits of reasonable alternatives for achieving regulatory goals. Non-regulatory approaches, such as economic incentives, can be more effective and less costly than regulations.

  Agencies should also consider alternative methods of regulatory control. Such alternatives might include flexible compliance deadlines, performance standards, variances and exceptions.

CMA
EC - 9/28/81
ED - 9/29/81

REGULATORY IMPACT SPECIAL COMMITTEE

CHARTER

Under the Regulatory Impact Analysis Policy for Health, Safety and Environmental Regulations approved by the Board of Directors and within the limits of authority specified by the Executive Committee, the Special Committee will define and develop appropriate methodologies for use in regulatory impact analysis by CMA. The Special Committee will maintain liaison with organizations active in regulatory impact analysis, and will promote an exchange of information with regulatory agencies, other associations, and chemical and allied industries.

Among its members the Special Committee shall have representatives from other appropriate CMA committees. This method of committee structure would insure consistent analysis across the spectrum of CMA interests.

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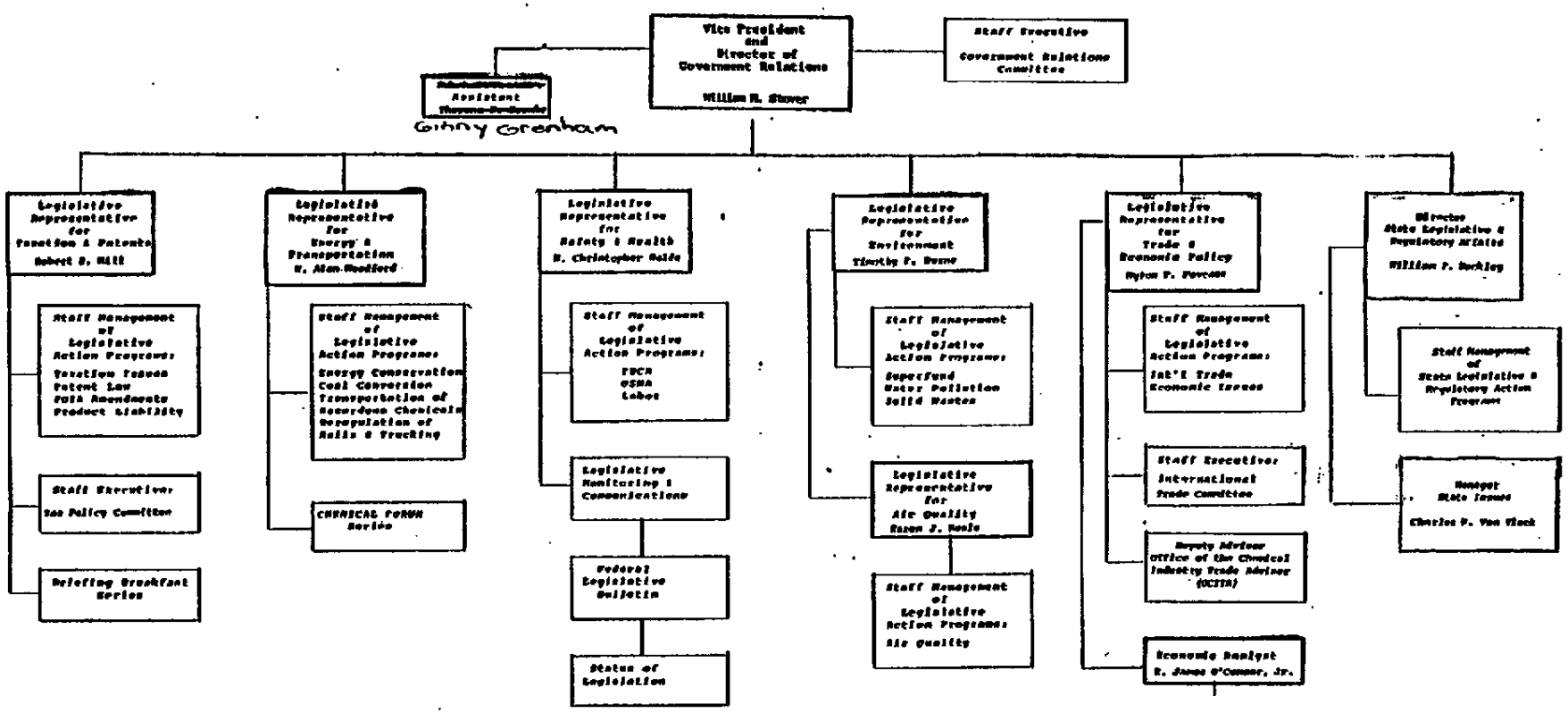
CMA GOVERNMENT RELATIONS DEPARTMENT



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