AGENDA

MEETING OF CMA BOARD OF DIRECTORS
Monday and Tuesday, September 9-10, 1985
The Ritz Carlton (Ballroom IV Room)
Laguna Niguel, California

Monday, September 9 - 8:00 a.m.

			TAB
8:00-8:05 a.m.	1.	Call to Order and Approval of Minutes of June 5-6, 1985, Meeting -- Chairman Sella	
8:05-8:30	2.	Annual Report of the Environmental Management Committee -- Frank W. Berryman, Chevron Chemical Company; Chairman, CMA Environmental Management Committee	
8:30-8:45	3.	Analysis of Dingell Survey on Air Emissions and Emergency Response -- Frank W. Berryman	
8:45-9:10	4.	Annual Report of the State Affairs Committee -- Garth F. Fort, Monsanto Company; Chairman, CMA State Affairs Committee	
9:10-9:45	5.	Special Report on the Status and Programs of the State Chemical Industry Associations -- William T. Wood, Jr., E. I. du Pont de Nemours & Company; Chairman, CMA Ad Hoc Chemical Industry Council Work Group	1
9:45-10:10	6.	Annual Report of the Government Relations Committee -- Kenneth E. Davis, Rohm and Haas Company; Chairman, CMA Government Relations Committee	
10:10-10:30	7.	Tax Reform Legislation -- William M. Bellamy, Union Carbide Corporation; Chairman, CMA Tax Policy Committee	2
10:30-11:10	8.	Superfund Reauthorization: a. Overview and Report on Association Activities -- William M. Stover b. Legislative Status -- Wells Denyes, Eastman Kodak Company; Chairman, CMA Superfund Task Group c. Communications Support -- Jon C. Holtzman	3
11:10-11:30	9.	President's Report -- Robert A. Roland a. CHEMNET Status Report -- Geraldine V. Cox b. Association Program and Issue Report	4
11:30-12:00 Noon	10.	Viewing of New CMA Film: "Cleaning Up" -- Jon C. Holtzman	
12:00 Noon	11.	Adjournment	

Tuesday, September 10 - 9:00 a.m.

			TAB
9:00 a.m.	1.	Call to Order -- Chairman Sella	
9:00-9:15	2.	Report of the Executive Committee -- Chairman Clark	
9:15-9:18	3.	Treasurer's Report -- Gary C. Herrman	5
9:18-9:20	4.	Report of the Nominating Committee -- Chairman Sella	
9:20-9:35	5.	Annual Report of the Special Programs Policy Committee -- Chairman Corless	
9:35-9:55	6.	Annual Report of the International Affairs Group -- Thomas W. Mooney, The Procter & Gamble Company; Vice Chairman, International Affairs Group	
9:55-10:20	7.	International Trade Policy Issues: Consideration of Executive Committee Recommendations -- Allan J. Spilner, Rohm and Haas Company; Chairman, CMA International Trade Committee	
		a. U.S./Canada Free Trade Agreement	6
		b. Multilateral Trade Negotiations on Chemical Tariff Cutting	7
10:20-10:35	8.	Protection of Groundwater Quality Policy: Consideration of Executive Committee Recommendations -- Frank W. Berryman, Chevron Chemical Company; Chairman, CMA Environmental Management Committee	8
10:35-11:00	9.	Annual Report of the Energy Committee -- Gary S. Furman, American Cyanamid Company; Chairman, CMA Energy Committee	
11:00-11:25	10.	Annual Report of the Engineering Advisory Committee -- Ray E. Olsen, Exxon Chemical Company; Chairman, CMA Engineering Advisory Committee	
11:25-11:50	11.	Post Institute Issue Impact -- Robert A. Roland	
11:50-12:00	12.	New Business	
12:00 Noon	13.	Adjournment	

MINUTES of the three hundred fourth meeting of the Board of Directors of the Chemical Manufacturers Association, Inc., held at the Ritz-Carlton Hotel (Ballroom IV), Laguna Niguel, California, on Monday at 8:00 a.m. and Tuesday at 9:00 a.m., September 9 and 10, 1985. There were present:

Directors:

George J. Sella, Jr. - Chairman
Harold A. Sorgenti - Vice Chairman
Robert A. Roland - President

Arthur E. Biggs	Hans H. Kopper
Robert D. Cadieux	Sidney M. Leahy
Carlyle G. Caldwell	Carl W. Lorentzen
Paul W. Chellgren	Robert H. Malott
W. H. Clark, Jr.	H. Eugene McBrayer
Harry Corless	Keith R. McKennon
Ralph S. Cunningham	Robert L. Mitchell
Keith H. Edmondson (1)	L. John Polite
Robert B. Fell (1)	Seymour S. Preston, III
F. Jack Fitzgerald	Thomas E. Reilly, Jr.
Robert C. Forney	M. Whitson Sadler
P. W. Ifland	Charles E. Stewart
Ray R. Irani (1)	S. Jay Stewart
John W. Johnstone, Jr.	J. R. Street
Robert D. Kennedy	Konrad M. Weis

Secretary: Charles W. Van Vlack
Treasurer: Gary C. Herrman
General Counsel: David Zoll

By Invitation:

Stuart T. Allen, SOCMA, E. I. du Pont de Nemours & Company
William M. Bellamy, Jr., Union Carbide Corporation
Frank W. Berryman, Chevron Chemical Company
Geraldine V. Cox, CMA
Kenneth E. Davis, Rohm and Haas Company (1)
Wells Denyes, Eastman Kodak Company
Garth F. Fort, Monsanto Company
Gary S. Furman, American Cyanamid Company
Edward D. Griffith, ARCO Chemical Company
Jon C. Holtzman, CMA
E. Hamilton Hurst, Nalco Chemical Company
Thomas W. Mooney, The Procter & Gamble Company (2)
Leslie F. Nute, Dow Chemical U.S.A. (1)
Ray E. Olsen, Exxon Chemical Company
Vernon R. Rice, E. I. du Pont de Nemours & Company
Allan J. Spilner, Rohm and Haas Company
William M. Stover, CMA
Juliane H. Van Egmond, American Cyanamid Company
James P. Watkins, American Cyanamid Company
William T. Wood, Jr., E. I. du Pont de Nemours & Company (1)

(1) Monday only
(2) Tuesday only

Monday, September 9, 1985

1. MINUTES OF LAST MEETINGS

Chairman Sella called the meeting to order at 8:00 a.m. The minutes of the June 5 and 6, 1985 Board meetings were approved as distributed.

2. ENVIRONMENTAL MANAGEMENT COMMITTEE

A summary of the committee's annual report is attached as Exhibit A.

3. DINGELL SURVEY ON AIR EMISSIONS

Mr. Berryman reviewed the results of the survey on air emissions and emergency response capabilities and practices. Key findings of the survey included:

- A significant amount of safety equipment and procedures are in place.
- The industry has a very active inspection and safety review program.
- Air emission measuring apparatus and techniques are in place or applied near the process unit rather than at the fenceline or in the community.
- There is substantial operator input (human factor) in most of these monitoring and safety systems.

The report will be delivered to Congressman Dingell later in September following completion and final review of the contractors' analysis of the data. There was considerable discussion concerning the ultimate public release of the report and the individual company's ability to be able to effectively respond to the issues that might be raised.

4. STATE AFFAIRS COMMITTEE

The committee's annual report, supplemented with Chairman Fort's report, is attached as Exhibit B.

5. STATE CHEMICAL INDUSTRY ASSOCIATIONS

Mr. Wood presented the report (Exhibit C) of an ad hoc group which had studied the status and programs of the various state chemical industry associations. Mr. Wood highlighted the following findings and recommendations:

- The 18 state groups represent a significant resource to the industry.
- CMA has done a good job in the past 4-5 years in nurturing and supporting these groups.

- CMA needs to continue to evaluate and find appropriate ways to utilize the resource that these groups represent, while recognizing that some states will always be able to do more than others.

- Member company senior executives need to provide strong, top down personal and corporate support for these groups.

- Some additional expenditure of CMA resources in the form of seed money would be desirable.

There was considerable discussion of the relative strengths of the state organizations, the need for additional state groups, and the role of the Board and the individual Directors in moving these programs forward and in resolving any problems or shortfalls in company involvement. The view was expressed that the Board and the individual Directors feel the need to have continuing input, as appropriate, on those areas where their action, either individually or collectively, is warranted. Mr. Roland indicated that there would be appropriate follow-up action based on the data in the report and the Board's request.

6. GOVERNMENT RELATIONS COMMITTEE

A summary of the committee's annual report is attached as Exhibit D.

7. TAX REFORM LEGISLATION

Mr. Bellamy's report is attached as Exhibit E. He highlighted several CMA activities including:

- The preparation of two tax studies on effective tax rates (Price Waterhouse) and on the economic impact of the Administration's proposal (IREP).

- Completion of a series of issue papers.

- A program of contacts with Ways and Means Committee members.

Following his presentation, there was discussion of how active the Association should be on the tax reform issue and where it should be ranked in the overall list of Association priorities. Further discussion was deferred to the Executive Committee meeting that afternoon.

8. SUPERFUND REAUTHORIZATION

a. Association Activities. Mr. Stover presented an overview of Association activities with respect to Superfund reauthorization.

b. Legislative Status. Mr. Denyes' report is attached as Exhibit F. He highlighted pending action on the Senate floor on S. 51 and in the House Ways and Means, and Public Works and Transportation Committees. Following his presentation, there was discussion of the senior executive assignments to visit key Members of Congress and the points which would be made during those visits. Further discussion of Association strategies was deferred to the Executive Committee meeting.

9. REPORT OF THE PRESIDENT

Mr. Roland's report is attached as Exhibit G. Dr. Cox presented a status report on CHEMNET's implementation which has 41 companies signed on and is scheduled to begin operations in October. Mr. Zoll reported on the August CMA conference on insurance and its findings. He discussed possible avenues of CMA involvement other than the formation of a captive insurance company and requested input from the Board on what direction the CMA effort should take. Mr. Stover reported on the pending Conference Committee action regarding reauthorization of the Clean Water Act. Mr. Holtzman described the upcoming open meeting of the Communications Committee on CAER. Mr. Roland reported on plans and programs for the October Chemical Industry Conference.

The Board adjourned until 9:00 a.m.
Tuesday, September 10.

* * * * *

Tuesday, September 10, 1985

10. "CLEANING UP" FILM

Prior to the beginning of the formal meeting, the recent CMA film entitled "Cleaning Up" was presented for those Directors who had expressed interest.

11. REPORT OF THE EXECUTIVE COMMITTEE

Chairman Clark reported on the items discussed and actions taken by the Executive Committee the preceding day. Chairman Clark indicated that the Executive Committee's recommendations on those subjects coming before the Board would be reported following presentation of each agenda item, but prior to the request for final action. He reported that the Executive Committee took the following actions:

- Approved four standing committee and IAG appointments.
- Recommended for Board action the Nominating Committee's report.
- Approved revisions to the Special Programs Policy Committee Charter, Principles and Operating Guidelines.
- Recommended for Board action the proposed position on a possible U.S./Canada Free Trade Agreement.
- Deferred the proposed position on multilateral trade negotiations (MTN) on chemical tariff cutting, pending further review by the International Trade Committee.

- Recommended for Board action the proposed position on the protection of groundwater quality.

- Requested the Environmental Management Committee to revise its proposal on an Association policy and program for air toxics.

- Discussed Superfund reauthorization strategies and reiterated the importance of the senior executive congressional visits.

- Discussed the impact of recent chemical incidents on the Association's activities, including a request to fund the CAER and CRC programs. The funding request was referred to the Finance Committee. Other areas reported as impacted were plant safety, air toxics and risk perception and acceptance.

- Discussed the tax reform issue and its relative priority. Agreed that it should be a high priority issue, but that it should not divert Association resources from Superfund and therefore should be addressed utilizing principally member company personnel. Requested that an appropriate action plan be prepared.

12. TREASURER'S REPORT

Mr. Herrman reported on the most current financial report available which covered the first two months of the fiscal year through July 31. In this period the Association had revenue of $11,734,000 and expenses of $1,709,500. As of September 3, dues had been received from all but nine members. Follow-up is continuing and no problem is anticipated at this time with respect to payment by those companies.

He also reported that as indicated by Mr. Berryman on the previous day, the Association's budgeted outside consulting funds are being committed somewhat earlier than normal. In addition, $65,000 has been transferred internally to support the two tax policy studies which Mr. Bellamy reported on the previous day.

13. REPORT OF THE NOMINATING COMMITTEE

Reporting as Chairman of the Nominating Committee, Mr. Sella presented a nomination to fill a vacancy on the Board of Directors caused by the resignation of Richard J. Mahoney of the Monsanto Company.

ON MOTION, duly made and seconded, it was

VOTED: That F. Jack Fitzgerald, Executive Vice President, Chemicals, Plastics and Fibers, Monsanto Company be elected as a Director through May 31, 1986.

14. SPECIAL PROGRAMS POLICY COMMITTEE

Mr. Corless presented the annual report of the Special Programs Policy Committee. He indicated the special programs area is generally operating well, although there are several areas that need further attention, and that CMA offers many advantages to those companies desiring to establish special program activities.

15. INTERNATIONAL AFFAIRS GROUP

A summary of the group's annual report is attached as Exhibit H.

16. INTERNATIONAL TRADE ISSUES

a. U.S./Canada Free Trade Agreement Mr. Spilner presented a proposed position on a possible bilateral free trade agreement between the United States and Canada. Mr. Clark indicated that the Executive Committee had recommended the position for Board approval.

ON MOTION, duly made and seconded, it was

VOTED: That the proposed position statement as presented by Mr. Spilner and as set forth in Exhibit I be approved.

b. MTN Chemical Tariff Cutting Mr. Spilner presented background on a position statement regarding possible across-the-board chemical tariff reductions in the next round of multilateral trade negotiations (MTN) which position had been presented to the Executive Committee the previous day. He highlighted the areas of concern raised by the Executive Committee which will require further review.

ON MOTION, duly made and seconded, it was

VOTED: That without prejudice to the original proposal, the International Trade Committee review the issue in light of the concerns raised by the Executive Committee and bring forward a revised proposal at the October meeting.

Board members were urged to provide their written comments on the MTN issue to the International Trade Committee as soon as possible.

17. GROUNDWATER QUALITY

Mr. Berryman also presented an overview of CMA's overall groundwater program and activities which is attached as Exhibit J-1.

Mr. Berryman presented a proposed position on the protection of groundwater quality which had been endorsed, with amendments, by the Executive Committee the previous day.

ON MOTION, duly made and seconded, it was

VOTED: That the position on the protection of groundwater quality, as set forth in Exhibit J-2, be approved.

18. ENERGY COMMITTEE

The committee's annual report, supplemented by Chairman Furman's report, is attached as Exhibit K.

19. ENGINEERING ADVISORY COMMITTEE

The committee's annual report, supplemented by Chairman Olsen's report, is attached as Exhibit L. Following the report, there was considerable discussion of the feasibility of sharing accident information among companies and of providing analysis of longstanding industry practices which should be reviewed. It was agreed that the Engineering Advisory Committee and the Health and Safety Committee would examine these areas for possible action.

20. PRESIDENT'S REPORT

Mr. Roland reported on the impact on CMA issues of the recent incidents at Institute and other locations. He indicated that there were four major areas where he believed the Association needed to focus its efforts to meet the heightened concern and potential legislative or regulatory activity. These areas included:

- Full and aggressive implementation of the CAER and NCRIC programs
- Plant and process safety
- Air toxics
- Risk perception and acceptance.

With respect to the CAER and NCRIC programs, Mr. Roland reported that a proposal to staff and fund the CAER and Chemical Referral Center (CRC) programs for the remainder of the fiscal year had been referred to the Finance Committee for further review prior to the October Executive Committee and Board meetings.

With respect to the plant safety issue, it was agreed that closer liaison with the American Institute of Chemical Engineers (AIChE) was necessary. It was also agreed that the Health and Safety Committee and the Engineering Advisory Committee are working on expanded activities in this area.

With respect to the risk perception and acceptance issue, Mr. Roland indicated that we would have to look for new and creative ways to communicate effectively with the public.

21. NEW BUSINESS

a. Clean Sites Inc. Dr. Forney presented an update on Clean Sites Inc. activities and accomplishments. He also reported on the need to find a senior industry executive for CSI before the end of the year and he urged Board members to submit candidates' names to Dr. Fernandez who is heading up the search effort.

b. Tax Reform Mr. Malott urged that CMA take the lead on key chemical industry issues, such as capital cost recovery and international competitiveness, as the tax reform debate accelerates. Mr. Sella indicated that the Executive Committee was in agreement that this was a priority issue and that a work plan based on a high degree of member company participation would be brought forward.

c. Superfund The importance of the assigned congressional visits by the Directors was emphasized as was the need to coordinate and report on those visits to CMA's Government Relations Department. There was additional discussion of the Association's posture in the final weeks of the Superfund debate. The importance of maintaining solidarity in the approved CMA policy positions was stressed.

* * *

On motion, duly made and seconded, the meeting was adjourned at 12 noon.

Charles W. Van Vlack
Corporate Secretary

Certified correct:

Chairman, CMA Board of Directors

EXHIBIT A

REPORT OF THE ENVIRONMENTAL MANAGEMENT COMMITTEE
TO THE BOARD OF DIRECTORS
September 9, 1985

EXECUTIVE SUMMARY

MAJOR ACCOMPLISHMENTS

The Environmental Management Committee's 1984-1985 year was once again full, diversified, and productive. The Committee effectively and successfully managed environmental matters before regulatory agencies, Congress, federal courts, and the public. In addition, the EMC is working closely with the State Affairs Committee to address evolving state environmental issues. A description of the EMC's major accomplishments is set forth in Chapter I. A summary of these accomplishments includes:

- The EMC, in conjunction with the Government Relations Committee has actively advocated reauthorization and appropriate amendment of the full spectrum of environmental legislation — Superfund, Resource Conservation and Recovery Act (RCRA), the Safe Drinking Water Act, Clean Air Act, and Clean Water Act. The end result of the 1984-85 efforts was a comprehensive amendment of RCRA. CMA efforts resulted in significant modifications to the RCRA amendments to make several requirements more palatable. We have: (1) proposed sound legislative alternatives; (2) promoted amendments that assure cost-effective requirements; and (3) have opposed amendments that impose unjustified restraints on industry operation and potential growth or those that offer little or no commensurate environmental benefits. At this time, there is a real likelihood that amendments to the Clean Water Act, Superfund, and the Safe Drinking Water Act will be enacted this year.

- One of the key elements of CMA's hazardous waste management program is to establish industry trends in member company hazardous waste disposal practices. To achieve this objective the EMC conducted for the third year, a survey of waste disposal practices for 1983, and is managing a similar survey for 1984. The three year survey results show very favorable disposal practice trends. The survey results have proven to be a very valuable element in CMA's Superfund legislative and communications programs, and as a part of the full spectrum of solid waste advocacy activities.

- During the past year, the rapidly escalating issue of air toxics has taken up an increased level of activity and has great significance to the EMC and the industry in the past year. The EMC managed a survey requested by Congressman Dingell on monitoring and detection systems for chemicals and emergency respons systems at chemical industry plants. In a related aspect, the EMC has established an ad hoc group to develop a comprehensive work plan for air toxics. Although we are still in the initial phases of this activity CMA's efforts have already begun to obtain results. We were prepared to address in a constructive yet forceful nature the first of what could be a series of legislative proposals on air toxics emissions. This activity will be one of the critical issues CMA/EMC will be addressing in the next few years.

o A second area of increased activity is in the groundwater area. The EMC has had in place for the past year an Ad Hoc Groundwater Coordinating Committee to assure overall coordination of CMA committee activities in implementing CMA's groundwater work plan. The implementation of the work plan is necessary to address groundwater related issues at both the state and federal level. CMA's activities have been effective in assuring that the reauthorization of the Safe Drinking Water Act does not become the vehicle for addressing groundwater issues. CMA is viewed by members of Congress, and EPA as being in the forefront on groundwater matters and is looked to by other industry groups to play a leadership role.

o CMA continues to promote a reasonable implementation of the existing and recently amended RCRA hazardous waste requirements. One of the key EMC activities was to conduct three educational seminars on the new RCRA amendments, and compliance with RCRA substantive and procedural requirements. The seminars were held in conjunction with the Council of Chemical Associations. On the regulatory issues, CMA efforts have been primarily geared to assure that technically sound RCRA regulations are being developed in a timely fashion. Of specific concern are EPA's regulations for implementing the land disposal ban requirements. In light of the new RCRA regulatory requirements, we anticipate a very high level of activity of the RCRA Regulations Task Group in addressing the new implementing regulations to assure that they are needed, technically sound and cost-effective.

o Superfund and its implementation continues to be a high priority for the EMC and the chemical industry. Significant progress is being made in EPA's implementation of this program. A continuing resource commitment is necessary to assure continued reasonable and cost-effective implementation of Superfund. The EMC has addressed several key elements of EPA's Superfund implementing program (i.e., revised national contingency plan, national priority lists updates), and EPA guidance documents and EPA and OTA studies. We believe our efforts were helpful in assuring that the nati nal contingency plan's clean up standard remains flexible. In light of anticipated reauthorization and amendment of Superfund this year, the level of CMA Superfund regulatory activity will remain high for the next several years.

MEMBER COMPANY PERSONNEL

The technical and legal expertise of some 294 people from 62 companies is currently being tapped to achieve the goals of the EMC. Compared to one year ago, the number of member companies' resources volunteered has increased by 6.5 percent. In addition, the number of assignments undertaken by member company personnel has increased eleven percent. These figures reflect a general escalation of legislative and regulatory action under all the environmental statutes. In addition, these increases demonstrate a continuing confidence of member companies that CMA cost-effectively advocates important issues and positions of concern to the chemical industry. In the next year, we anticipate increased activity on the toxics air emissions issue and a continuing high level of activity on all solid waste issues, especially groundwater, RCRA implementing regulations, and Superfund matters. These increased activities will require a modest but increased resource commitment to achieve CMA's goals.

EMC LEADER TRAINING

The most valuable resource the EMC and CMA have is the member company volunteers that participate on our committee, its 18 task groups, and 40 work groups. The EMC, its 18 task groups, and work groups have held approximately 240 formal CMA meetings in the past year. In order to most effectively use these resources, the EMC developed and implemented a leader effectiveness training program. The program provides the leaders basics on antitrust, CMA organisation, CMA and EMC rules and procedures, and principles of meeting leadership effectiveness. The training "instructors" primarily come from CMA staff and EMC members. The meeeting effectiveness segment of the course was developed for use by the training department of BASF Wyandotte Corporation. To date, 61 persons have participated in the course.

EMC EDUCATIONAL PROGRAMS

One of the responsibilities of the Environmental Management Committee is to help member companies understand their environmental responsibilities. The EMC has met this challenge by holding semi-annual environmental updates on all significant Committee activities, and conducting other seminars on major issues on an as needed basis. In the past year, the EMC has sponsored 2 updates and 6 seminars on a wide spectrum of environmental issues (i.e., groundwater treatment, RCRA amendments/RCRA compliance, water quality based permits). The seminars are routinely open to all CMA and Chemical Industry Council members, and on a case-by-case basis open to other organizations (i.e., SOCMA, American Petroleum Institute, Utilities Water Act Group).

CMA STAFF PERSONNEL

Eight professionals and five support staff are assigned to the Environmental Division. An additional professional to manage the specially funded Underground Injection Control project will be retained under contract. The Division may need to expand its support resources to address the rapidly expanding workload of the Environmental Division (i.e., solid waste programs, air toxics) and still handle the demand for CMA services and to fulfill the goals of the Committee. (A detailed summary of Committee's 1985-86 objectives are set forth in Appendices E, F, and G.).

Other CMA staff working on EMC activities include the equivalent of three and one half attorneys from the Legal Department, three professionals from the Government Relations Department, and assistance from the State Affairs Division and Communications Department, as needed. During the next year, we expect a need to maintain this level of support from all other departments within CMA.

RESEARCH AND CONSULTING

The total FY 84/85 budget for EMC research and consulting projects was set by the Board of Directors at $218,000. As the fiscal year progressed, other committee funds became available and the actual EMC expenditures totalled $229,500 as detailed on pages 18 through 21. The research and consulting budget approved for EMC activities for FY 85/86 is $360,000. This figure does not include unanticipated funding needs for issues that arose or have significantly escalated after the funding process began. In light of the increasing level of environmental activities, noted above, the current budget may not be adequate. It is likely that some necessary projects can not be addressed within the existing budget. In such instances, the EMC will request, on an as needed basis, supplemental funding.

PROGRAM OUTLOOK

As the FY 85/86 year begins, CMA and EMC are facing continuing challenges and some new environmental issues. (E.g., air toxics, groundwater, RCRA land disposal ban regulations, drinking water regulations.) To meet this challenge, the EMC has programmaticly modified its methods of operations to enhance the role of the EMC sponsors with each task group, and EMC's planning activities. (E.g., EMC clearly defines task group six month objectives, more active participation of EMC sponsors with task groups, routine policy development reports by sponsors at EMC meetings.) In addition, the EMC has implemented horizontal issue management (i.e., ad hoc group representing several task groups and/or standing committees) in addition to the traditional functional (i.e., task group) issue management.

It is imperative that as an Association we develop forwarding thinking policies that allow the industry to get in front on an issue so that we end up managing the issue rather than the issue managing our limited resources. We have made progress in how we are viewed by the public, Congress, and EPA, in that we are considered a constructive factor on key environmental issues (e.g., Superfund, RCRA, surface water). If the chemical industry is going to continue to be successful in its advocacy before EPA and Congress, it is essential, more than ever, that we not only develop proactive positions but provide EPA and Congress the necessary alternatives and/or supporting data. In this regard, all levels of EPA and Congressional staffs continue to request industry data and/or information as part of the Congressional and regulatory development process.

A meaningful response by industry will require significant member company and staff resources. If we want to effectively advocate positions before EPA, we must continue to make this resource commitment. Such efforts will result in limited regulations and/or more cost-effective regulations for the chemical industry that also will provide a substantially improved environment.

The EMC will be challenged during the next year to develop proactive positions, to respond to the EPA, and to adequately support legislative and judicial issues as they arise. In this regard, the EMC will need company commitments of adequate resources to address new regulatory and legislative initiatives concerning groundwater, air toxics, RCRA amendments implementation. In addition, we will need to support CMA activities concerning possible amendments to the Clean Air Act, and development of a new piece of groundwater legislation. There will also be extensive regulatory activities to address on implementation of all environmental statutes. This activity also includes possible litigation related to implementation of the Clean Water Act, Clean Air Act, RCRA, Safe Drinking Water Act and Superfund.

Many environmental issues addressed at the federal level will become more important at the state level and possibly at the international level. The EMC will therefore be in a continuous process of setting priorities and concentrating our resources where they will have the greatest likelihood of positive impact for the chemical industry.

CMA
BD-9/9/85

EXHIBIT 8

Report to CMA Board of Directors
G.F. Fort, Monsanto Company
Chairman, CMA State Affairs Committee
September 8, 1985

Good morning -- I am Garth Fort from Monsanto. My purpose today is to report on the State Affairs Committee, which has the responsibility of serving as the "watchdog for the chemical industry int rest at the state level."

This committee was formed four years age, so we're in the same position as a politician completing his first term in office and running for re-election on the record.

In the case of this committee, that record is a good one ....so far.

The stakes have been high at the state level.

Congress passes major environmental legislation -- the Clean Water Act, Clean Air Act, Resource Conservation and Recovery Act, Safe Drinking Water Act, and "Superfund." But all of these are "minimum requirements," and the states are permitted -- and even encouraged -- to go farther.

Daniel Bean, writing for the "Policy Studies Journal," underscored the rising importance of state governments. He said, "They are no longer regarded as horse and buggy governments, as they were in the 1960's and are coming once again to be viewed as laboratories of innovation and democracy.

The Conservation Foundation has pointed out that environmentalists of a decade ago generally sought federal solutions to pollution problems. They now look frequently to the states, recognizing that Washington has no monopoly on "environmental virtue."

Examples are numerous. California regulations on hazardous wastes were copied in last year's RCRA reauthorization. California laws passed by Sher and Katz in 1983 and 1984 were models for the present federal regulations of pits, ponds and lagoons. Very recently, the League of Women Voters initiated a program on "Household Hazardous Wastes" focused at the local level. The effort quickly spawned twenty bills this year at the state level, and promises to attract the attention of U.S. EPA, if not Congress. Even today, New Jersey state legislators are directly affecting the congressional debate on "Community Right-to-Know and Catastrophe Prevention."

Four years ago, as CMA responded to the increasing importance of state issues, they recognized the challenges.:

- The political playing field is geographically spread over 50 states.
- There are thousands of key players -- seventy-five hundred legislators alone, with staffers and executive agency personnel numbering thousands more.
- There are 250,000 bills introduced each year which could affect our business.
- Timing for political action at the state level is measured in days, not months or years, as is frequently the case in Congress.

To meet these challenges CMA developed a unique program that is built on sound managerial and political principles:

1. Set priorities on issues to make the most of limited resources.
2. Get involved as early as possible in the political process to maximize effectiveness.
3. Develop position statements and supporting arguments before the issue surfaces, to keep up with the fast track political pace.
4. Emphasize local involvement for early alert and political effectiveness. Those on the scene have the best chance of knowing what's developing and politicians listen best to those who elect them.

To implement this program, a network of state chemical industry councils and trade associations was chosen to be the cornerstone of CMA's field marketing force to sell our positions on priority issues. But it was clear that the network needed lots of support and direction.

As Jim Murray reported last year, activities were planned to cultivate that network by making CMA a focal point of information gathered from the collective national resources of our industry. Many of these activities are well underway, and have truly turned CMA into a "Center of Excellence" for state issues. Member company personnel and state trade associations are routinely turning to CMA for advice and guidance. Other industry trade associations like American Petroleum Institute and the National Agricultural Chemical Association are contacting CMA on mutually important state issues. Associations of elected officials like National Governor's Association, National Conference of State Legislators, Council of State Governments and even the National Association of Towns and Townships are turning to CMA for input on policy positions, agenda ideas and speakers. These indications of success are gratifying, but most importantly, the "CMA approach" has clearly helped produce "bottom line results" for member companies.

Our system was severely tested this year and it worked. Let's look at some specific results:

By June of last year, community right-to-know was targeted for priority coverage for the then upcoming 1985 legislative session. Drawing on two years of experience with this issue at both the state and federal levels, CMA staff efficiently pulled together a wealth of information-- position papers with back-up arguments, copies of all previous state laws and regulations, and copies of testimony that had been given before Congress and at the state level. In addition, CMA State Affairs Group held regional information seminars on the subject to educate members of the CIC's network.

When Bhopal hit in December, the CMA State Affairs organization as a whole was well prepared for the unprecedented flood of state bills that were promptly dumped into the legislative hopper. When the dust settled this year over 150 bills on this subject had been introduced in 40 states, and over 22 states passed some right-to-know provisions. State legislators had developed new proposals to force governmental control on our plants, and tried to move the issue far beyond the CMA position.

Although battles are still being fought in California, New Jersey and Michigan, to date all the laws passed this year are generally consistent with CMA policy. We have retained our trade secret protection rights and successfully avoided costly requirements for unique labeling, environmental emission monitoring and independent risk management audits.

Public compensation was another priority issue where the results were good. It was an active issue in five states -- California, Massachusetts, New Jersey, Minnesota and Rhode Island. CMA's position was that NO administrative public compensation program was needed and tort law should not be changed. The CMA Policy Committee's marching orders to the state troops in the field were clear -- "Hold Pork Chop Hill."

CMA staff and member company representatives helped guide the strategy in these states. The UAREP study results were effectively used in conjunction with expert testimony provided by personnel from Centers for Disease Control, academia, the insurance industry, the legal profession, and our own companies. We were successful in four of the five states and marginally successful in the fifth.

Only Minnesota passed a public compensation bill which established an administrative fund -- and it was very limited in scope. The situation there was unique in that local industry supported the legislation because it solved some severe insurability problems created by an earlier 1983 Minnesota superfund law.

The results on another priority issue -- state superfund laws -- also were good. We successfully prevented both the adoption of unacceptable liability language and the inclusion of provisions for personal injury compensation. State superfund fees were held within reasonable limits, although some increased significantly.

CMA also played a role in preventing further proliferation of unique state regulations of toxic air contaminants. As an example, Massachusetts has been slowed down in their effort to regulate 450 compounds in six months by shortcutting good science. Reason has prevailed despite Massachusetts' impatience with the federal government for only promulgating regulations for six (6) hazardous pollutants since 1970.

Progress was even made in the transportation are -- CMA helped orchestrate the passage of a couple of more "Good Samaritan" laws bringing the total to 34 states.

CMA member companies took the lead in these cases. Our preparation over the previous three years paid off, and our network delivered. But we can't rest on past success. The outlook for the future is one of increasing challenges.

Additional releases of toxic substances since Bhopal continue to erode our privilege of self-regulation.

Instead of being innocent until proven guilty, industry now can look forward to trying to justify its existence and its very right to operate in the neighborhood.

Our challenge will be to prove that our operations will NOT create a problem. The burden of proving this kind of negative is limited only by reasonableness, as defined by state authorities whose survival in office depends on their response to political winds.

At the same time the political climate is deteriorating, federal policy is turning the "spotlight" on state and local programs. Two issues -- groundwater regulation and toxic air contaminants control -- will be handled primarily by the states if the U.S. EPA has its way.

When EPA announced its groundwater strategy, it was -- quote -- "based on tradition deeply ingrained in our legal and institutional history. The states have and should continue to have fundamental responsibility for protection and management of the resource itself.."

States will be deciding when and how much industry pays for multi-million dollar programs related to:

- Cleaning up groundwater under existing plant sites.

- Providing alternative sources of drinking water for the public.

- Requiring retrofit capital for existing facilities to ensure better groundwater protection.

States will maintain the right to ban the use or sale of certain chemical products if groundwater is threatened.

The story is similar for air toxic control. On June 4, Lee Thomas announced a substantially new approach for reducing public health risks from airborne toxic pollutants. Federal standards for individual contaminants will no longer be the prime tactic for control of air toxics.

EPA plans to provide financial assistance for strengthening state programs for control of air toxics from large point sources having localized impacts. We will have to address the issue not in Washington, but at the numerous locations where problems are felt to exist. No longer will states have to wait for U.S. EPA to act before they can require new emission controls on "toxics." Tens, if not hundreds, of millions of dollars for additional emission controls are at stake.

Clearly, groundwater and toxic air contaminant issues will be two of our top priorities for next year. In addition, when the bell rings in January, our opponents will be back for the next round on several of the same issues we had last year.

SUPERFUND

Some have estimated that by 1990 total state superfund program costs will exceed those of CERCLA as states tackle more abandoned sites not on the National Priority List and pay more for long-term site maintenance.

RIGHT-TO-KNOW

Our opponents will push for what they did not get this year -- emission monitoring and independent audits of our plant safety programs.

PUBLIC COMPENSATION

Minnesota's action this year will cause some states to play catch-up. In addition, plaintiff lawyers will continue to push to reduce "burden of proof" for chronic health cases. Their carrot is hundreds of millions of dollars of court settlements.

HAZARDOUS WASTE DISPOSAL PRACTICES

The push to phase out landfills and deep wells will continue.

HAZARDOUS SUBSTANCE TRANSPORTATION ISSUE

Post-Bhopal analysis of risks will focus on transportation of hazardous materials. Routing restrictions and additional fees will be considered.

****

Our planning conference in June identified these as priority issues and we have established some specific objectives to improve our effectiveness in tackling them:

- Expand our computerized early alert and information network to improve staff productivity.

- Better use of public relations or advocacy communication at state level.

- Establish two-way "electronic mail" capabilities with key chemical industry councils to better meet their needs.

Our action plans for next year remain consistent with the original premise of the CMA State Affairs Program. Basically, we target to do what we do better.

Last year, Jim Murray stood before you to ask for additional CMA staff support for the state program. You responded, and I think the results speak for themselves: The team has performed. On behalf of everyone who was out there in the trenches, I want to borrow a slogan used by the United Way a couple of years age, and say -- "Thanks to you, it's working -- for all of us."

We have built a national network that is stronger than any one of us could have done on our own. By leveraging our position, we have produced very good returns on our rather limited investment.

The CMA State Affairs effort needs your continued support next year in four basic areas:

1. Maintain CMA staff support at the same level as last year.

2. Provide additional active member company personnel to serve on state CMA task groups established for the priority issues.

3. Support state trade associations and chemical industry councils with dues and experienced people. Bill Wood will expand on this request in his presentation, which follows.

4. Involve senior chemical industry executives in state matters with follow up provided by local personnel.

With your continued support in these areas, CMA State Affairs Committee should do an even better job next year as the "watchdog for our industry at the state level."

CMA
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EXHIBIT C

EXECUTIVE SUMMARY
STATE CHEMICAL ORGANIZATIONS STATUS REPORT

BACKGROUND

During the past several years, there has been increasing interest in the status, programs and collective capabilities of the various organizations representing the chemical industry at the state level. These organizations include state chemical associations, state chemical industry councils (CICs) and chemical industry committees of state manufacturers associations. In addition, there has also been interest expressed concerning how the evolving state and local involvement of CMA fits with the existing programs, priorities and capabilities of the state organizations.

FORMATION OF WORK GROUP

To meet this need, an ad hoc work group was assembled, composed of member company state and public affairs professionals who both individually and through the corporations they represent had played a key role in the development and evolution of state organizations around the country.

OBJECTIVES

The work group identified the following objectives for this report:

- Prepare a comprehensive status report on the current objectives, structure, finances, programs, plans and needs of the various state organizations.
- Assess the collective current resources and capabilities of the 18 state organizations.
- Draw some conclusions about the overall operation of the state groups, identifying particularly those elements which make successful CIC programs successful and those elements which inhibit success.
- Develop and communicate recommendations for both CMA and member company actions relative to improving and supporting the state organizations and their existing missions.

The following were clearly <u>not</u> the objectives of the report:

- Evaluate or judge the performance of any <u>individual</u> state organization.
- Assess or develop an overall CMA program for expanded involvement at the state and local level. This could follow, however, based on this group's report and utilizing a broader-based range of interest and expertise.

PERSONAL SURVEY OF STATE ORGANIZATIONS

In order to carry out its objectives, the group developed a survey which sought information and opinion from and about each organization in the following areas: organization (including structure, funding, staffing and member participation), issue coverage, advocacy programs (legislative, regulatory, public/media communications, education, grassroots, etc), communications and image-building activities, and future plans and needs. The group personally interviewed a range of individuals in each state to seek their input, and this material was then compiled and analyzed by the work group. Summaries of the state surveys are contained in the full report and are presented in chart form following this Executive Summary.

CONCLUSION FROM SURVEY

1. Organizational Classification. The 18 state organizations may be classified into four organizational categories:

- Independent, with an all volunteer effort. (Alabama and Delaware)
- Independent, largely volunteer, but with a part-time staff, consultant and/or lobbyist. (Pennsylvania, Florida, Michigan, Illinois, Missouri)
- Affiliated with state trade association, utilizing principally trade association staff, but may have own part-time staff, consultant, or lobbyist. (New York, Connecticut, Ohio, Tennessee, Kentucky, West Virginia, Massachusetts)
- Independent with one or more full-time staff members, together with a multi-committee structure responsible for individual programs. (Texas, Louisiana, New Jersey, California).

2. Needs for CICs. In states of primary importance, the chemical industry needs to have a network of strong CICs (either independent or affiliated with other state business associations) with multiple capabilities to achieve not only the primary goal in each state which is minimizing inappropriate legislation, but also the national goals of the chemical industry as well which include:

- Uniformity in state legislation/regulation
- Avoidance of bad precedents for Federal legislation
- Support for Federal Grassroots Program
- Support for Regional Communications efforts on national issues
- Support for CAER/NCRIC programs and any other industry initiatives which require local implementation or support

3. Programs and Capabilities. Collectively, the 18 state groups represent a broad spectrum of programs and capabilities. While a few can be deemed fully functional organizations with multifaceted programs, many are still seeking their identity or are otherwise in a state of transition or growth. It is also important to point out that many still see their role restricted almost entirely to direct legislative and regulatory advocacy. Much progress has been made in the last five years, and more will follow with the proper leadership, member company commitment and the allocation of sufficient resources.

4. Budget and Finances. The budgets and dues structures of the various state organizations varies enormously from state-to-state, with the budget range being from $0 to over $500,000. This variance can be somewhat misleading since 7 groups operate affiliated with state manufacturers associations to whom they pay dues separately. However, it is accurate to say that with the exception of four states (Texas, Louisiana, New Jersey and California), the rest of the state organizations generally operate on budgets of well under $100,000 per year. The bulk of the resources are not provided by direct dues, but are contributed in the form of member company personnel and expertise. Dues are generally based on a flat fee, plus surcharges for additional facilities and number of employees.

5. Elements which Contribute to Successful CIC Programs. The following were identified:

- Strong commitment by senior management of major companies with the largest in-state presence and resources.
- Broad participation by chemical industry companies represented in that state with human as well as financial resources committed to the program.
- Strong qualitative and quantitative CIC staff support - full or part-time lobbyist, executive director or manufacturers association staff located in the State Capitol.
- Member company support of an equitable fee structure which generates sufficient revenue to operate a meaningful program. Strong programs do not seem to be seriously affected by economic downturns.
- Focus on strong legislative or legislative/regulatory programs with the goal being to make a meaningful impact on the public policy process.
- Recognition of the CIC as the prime resource on "our issues".
- Strong working relationship with CMA and other key allied industries and the ability to deal effectively with the opposition.
- Member company satisfaction and the degree to which they feel they are being adequately represented in the legislative process.
- Where appropriate, strong affiliation with the state manufacturers association.
- Access to political action committee resources
- Strong grassroots program (ACIT).

6. Elements which Prevent CIC Programs from being Fully Effective. The following elements were identified as factors which may prevent individual programs from being fully effective:

- Lack of sufficient chemical industry representation in the state.
- Lack of commitment by key in-state companies.
- Lack of technical expertise/specialized resources being made available.
- Geographic spread of members in the state - difficulty in getting to capital easily/frequently.

- Lack of adequate funding or an otherwise flawed dues system which lacks member support.
- Lack of strong retained leadership/staff services.
- Lack of agreement on common/priority goals and effective ways to meet those goals.
- Negative media/image of the industry in the state.
- Inability to network or work with other business organizations and CMA.
- Credibility and militancy of the "other side" in the state.

COMPARISON WITH OTHER MANUFACTURING INDUSTRIES' STATE PROGRAMS.

The CMA/CIC Network approach was compared and contrasted to the programs operated by the tobacco industry and the petroleum industry. The CMA/CIC program was determined to be increasingly effective at a cost of about one-eighth of the API or Tobacco Institute approach of a large centralized program.

RECOMMENDATIONS

The following recommendations for CMA and its member companies were developed based upon the survey, interviews and work group discussions. These recommendations are designed to enhance the state chemical organizations' ability to carry out their present missions, the primary (and in some cases exclusive) one being state legislative and regulatory advocacy. To the extent the industry's priorities for these organizations change or significantly evolve, a further examination and some additional actions and recommendations will be required.

A. CMA Actions

- Under current circumstances, the nature of the organizational relationship between CMA and the individual state chemical organizations should remain as it is, rather than move toward the API approach of integrated state petroleum councils funded and staffed directly by the national organization.

- CMA priorities should be on strengthening existing CICs rather than creating new ones at this time. CMA should carefully consider how the industry should be collectively represented in those states without CICs and where there is a distinct chemical industry issue which will not be adequately addressed otherwise. Specifically, should resources be made available to have a CMA state lobbyist on a retained basis where circumstances warrant?

- CMA should allocate funds to help finance specific projects or operations of state chemical councils on a seed money/matching grant program to assist in getting new or expanded operations going. Such grants for projects or expanded operations should be for a limited time and made under specific criteria and standards.

The focus of such CMA funding should be on supporting those programs and priorities of the chemical industry which are of interstate and national significance. Funding for ongoing programs and for issues and projects primarily of intrastate interest should continue to be funded directly by the member companies of each state organization. Similar funds currently provided through the CMA communication program to help initiate issue-oriented communication projects at the state level also have value and should be continued.

- CMA should continue and renew its efforts to build a stronger overall relationship between CMA and the individual CICs so that CMA and the CICs can better utilize each other's capabilities. Specifically, CMA should:

  - Increase its efforts to provide technical/scientific/legal support to the CICs on the state aspects of key chemical industry issues.

  - Continue to devote adequate resources to its ongoing internal state affairs and communications programs which provide direct support to state CIC efforts.

  - Provide continuing support to increase membership and active participation in the CICs and should continue to seek ways to increase the visibility of the efforts of the CICs with senior management.

  - Continue efforts in working with other national business associations on state level cooperation and coordination.

  - Examine options for developing more equitable and uniform methods for funding CIC operations.

  - Fund and conduct leadership and training workshops for CIC staff and key member company volunteers in leadership positions in the CICs.

B. Member Company Actions

- Top down corporate involvement by senior chemical industry executives in state government affairs generally and in CIC activities specifically. They need to make effective CICs a priority in their organizations by:

  i) Joining where they manufacture or otherwise have an interest
  ii) Providing adequate financial resources
  iii) Providing the right kind of people to support the effort
  iv) Making corporate technical resources available

- Top down personal support and involvement by senior chemical industry executives in state matters, particularly legislative advocacy. Individuals in each corporation need to <u>selectively</u> involve senior executives in these issues. This will increase corporate awareness of the serious nature of the state issues and will also increase changes for legislative success.

- Member companies should assign an individual overall responsibility for State Affairs for the corporation.

- Member companies should bring CIC staff/leaders to corporate headquarters for briefings on key state issues.

Action Required

Member companies should consider individual actions based upon the member company recommendations in the report. CMA should evaluate the individual CMA recommendations in the context of its 1985/86 budget and program review process.

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C. STATE SURVEY RESULTS

SUMMARY CHART

STATE ORGANIZATIONS	State Ranking in Value of Shipments	Independent or Affiliated Organizations	Number of Members	Budget	Staff	Government Relations Program	Public Relations/ Communications Program	Education Program
Alabama Chemical Association	20	Independent	23	$ 5,000	None	Yes (not very active)	No	No
Chemical Industry Council of California	6	Independent	67	200,000	3 (2 Professionals, 1 secretary)	Yes	Yes	Yes
Chemical Affairs Group Connecticut B&IA	22	Affiliated with Conn. Bus. & Industry Assoc.	25	None	None (utilize CBIA staff)	Yes	No	No
CIC of Delaware	27	Independent	17	None	None	No (holds leg dinners)	No (holds press luncheons)	No
Florida CIC	15	Independent	20	25,000	Retained law firm	Yes	No	No
CIC of Illinois	4	Independent	50	70,000	Part-time Exec. Dir. Part-time Lobbyist	Yes	Yes	Yes
Chemical Committee of Associated Industries of Kentucky	19	Affiliated with AIK	54	None	None (utilize AIK staff)	Yes	No	No
Louisiana Chemical Association	3	Independent	60	400,000	6 (4 professionals, 2 secretaries)	Yes	Yes	Yes
Chemical Affairs Group of Associated Indus. of Mass.	24	Affiliated with AIM	19	None	None (utilize AIM staff)	Yes	No	No
Michigan Chemical Council	11	Independent	37	90,000	Association Mgmt Firm & retained law firm	Yes	Yes	Yes
CIC of Missouri	18	Independent	21	25,000	Part-time Exec. Dir. retained law firm	Yes	Chemical Progress Week	Yes
CIC of New Jersey	2	Independent	84	189,000	3 (2 professionals, 1 secretary)	Yes	Yes	Yes
Alliance of Chemical Industries of New York State	7	Affiliated with NYBC	40	40,000	Retained lobbyist; also utilize NYBC staff	Yes	Just beginning	No
Ohio Chemical Council	5	Affiliated with OMA	52	50,000	Part-time Exec. Dir.	Yes	Yes	Yes
Pennsylvania CIC	8	Independent	39	50,000	Retained lobbyist	Yes	No	No
Chemical Industry Committee of Tennessee Mfgs. Assoc.	9	Affiliated with TMA	10	None	None (utilize TMA staff)	Yes	No	No
Texas Chemical Council	1	Independent	86	551,000	7 Staff; 2 Consultants	Yes	Yes	Yes
Chemical Industry Committee of West Virginia Mfgs. Assoc.	16	Affiliated with WVMA	19	None	None (utilize WVMA staff)	Yes	No	No

Attachment
EXHIBIT C

EXHIBIT D

REPORT OF THE GOVERNMENT RELATIONS COMMITTEE
TO THE BOARD OF DIRECTORS
September 9, 1985

EXECUTIVE SUMMARY

Organizational

Early sections of the report of the Government Relations Committee are devoted to its role, membership and organization. The Committee is the focal point f the coordinated Federal legislative activities of the chemical industry. Through the cooperative efforts of a highly professional community of Washington representatives, the Committee provides a service which offers to CMA and its various program elements:

- monitoring of key issues;
- advice during policy making;
- legislative strategy development and political analysis;
- direct legislative communications programs.

Where the importance of issues has dictated the formation of a task group or appointment of a Committee Keyman, the staff executive/support function is provided by a member of the professional staff of the CMA Government Relations Department.

Special Activities

A section describes events such as the CMA Briefing Breakfast and the CHEMICAL FORUM Luncheon series aimed at promoting interaction between industry Washington representatives, encouraging participation and keeping them abreast of developments on current issues. Several kinds of information and coordinating services are also detailed.

Grassroots

A section describes the continuing priority effort toward a coordinated industry grassroots system to build local influence in Congressional decision-making.

Issues and Actions

A section provides a series of reports by task group chairmen and keymen on important issues which occupy the attention of the Government Relations Committee. These issues represent the work product on which this committee provides overall legislative service and leadership for CMA advocacy. Also included are a listing of recent CMA Congressional testimony.

Committtee 1984-85 Objectives and Progress

A section reports on three areas on which the Committee has placed emphasis:

- a focus on the management of priority issues;
- linking legislative and communications efforts; and,

EXHIBIT E

ADMINISTRATION'S 1985 TAX REFORM PROPOSAL
REPORT ON CMA POSITIONS AND ACTIONS

BACKGROUND:

On May 28, President Reagan announced his 1985 tax reform program. In general, the President's program would shift almost $40 billion of the Federal income tax burden now borne by individuals to business taxpayers. Within the business sector, the President's program would substantially increase the tax burden of businesses that are capital intensive and that engage in significant international trade. Although the impact of specific provisions may vary from company to company, the overall impact of the President's tax program would cost the chemical industry more than $2.5 billion annually.

The President's program provides for a reduction in the maximum corporate tax rate from 46 to 33 percent. In addition, it provides for a deduction in computing corporate income taxes of 10 percent of dividends paid. Offsetting these reductions, the President's plan would repeal the investment tax credit, replace the ACRS depreciation system with a less favorable capital cost recovery system, and replace the present minimum tax with a new minimum tax on corporate income. Beginning in 1986, significant new recapture rules would apply to taxpayers who took depreciation deductions of $400,000 or more in the period January 1, 1980 through July 1, 1986. Under these new rules, 40 percent of the excess depreciation claimed for tax purposes over that allowed for earnings and profits (less a $300,000 overall deduction) would be recaptured at post-1985 corporate tax rates. Thus, capital intensive taxpayers who used the incentives for capital formation in President Reagan's 1981 tax program would be subject to significant tax increases over the next three calendar years.

The President's tax program also proposes significant changes in the taxation of international activities of U.S. corporations. The program would impose a more restrictive per country limitation on the use of the foreign tax credit and would eliminate the old and established "title passage" test for determining the source of income from the sale of property, including the export of manufactured products. The proposal includes stringent new rules on the allocation of interest expenses among within the members of a consolidated group. Significant reductions in tax benefits are also provided for activities in U.S. possessions, notably Puerto Rico.

In general, Democratic and Republican Congressional leaders have supported the broad objective to pass tax reform legislation this year. The Administration and Congressional leaders have also agreed, for the moment, that the objectives of tax reform should be accomplished in legislation that neither increases nor decreases the flow of tax revenues to the Federal Government.

CMA PROGRAM DEVELOPMENT AND RESPONSE

In November, 1984, the Tax Policy Cpmmittee identified several major tax issues that are of continuing concern to the chemical industry. Subsequently, the Treasury Department proposed major tax reforms that would affect many of these subjects.

At the Board's January meeting, Committee Chairman William M. Bellamy, Jr. reported that the Tax Policy Committee was developing a series of specific issue responses to the Treasury's tax reform proposals that could be incorporated into a CMA legislative statement. In May, Mr. Bellamy delivered a progress report to the Executive Committee and noted that the Tax Policy Committee would request that CMA commission independent studies for use in CMA's tax legislative program.

CMA commissioned Price-Waterhouse to conduct a study of effective tax rates in the chemical industry. Also, CMA provided a grant to the Institute for Research in the Economics of Taxation (IRET) to study the impact of selected tax reform proposals on the formation of capital in the chemical industry. In July, the Tax Policy Committee developed a CMA legislative statement on the Administration's tax program which was presented to the House Committee on Ways and Means by Dexter F. Baker, President, Air Products and Chemicals, Inc. At its August 13 and 14, 1985 meetings, the Tax Policy Committee and GRC Tax Legislative Task Group established priorities with respect to major tax issues of chemical industry concern and approved in concept its plan for legislative action.

Attached is a brief summary of CMA's position on tax reform legislation.

ACTION: For information only.

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EXHIBIT F

SUPERFUND STATUS REPORT

Legislative Review

By Wells Denyes, Eastman Kodak Company

The House Energy and Commerce Committee, on July 26, reported the Superfund bill, H.R. 2817. The bill was approved by a vote of 31 to 10, with one member not voting. This vote occurred after six long days that included many emotional debates on the issues. The substance of the original bi-partisan compromise bill was retained. The bill as reported has been judged by CMA's technical groups to be reasonable, although it substantially increased the programs and authority over present law.

Following is a brief list of key issues that were considered and the votes by which major and damaging changes were rejected:

1. Mandatory clean up schedules. (Failed 16 - 26)

2. Far more stringent standards of clean up, even greater than might be needed to protect health and the environment. (Failed 12 - 30)

3. Requirement that private-party clean ups be more stringent than fund-financed clean ups. (Failed 15 - 27)

4. Requiring that all clean up settlements contain a reopener clause thus preventing final release from liability to be granted. (Failed 15 - 27)

5. Remove limits of liability and create joint and several liability in the Leaking Underground Storage Tanks Program. (Failed 13 - 29)

6. Expand the rights of citizens to bring suit against owners of waste disposal sites in Federal court if there may be an iminent or substantial endangerment. (Failed 20 - 22)

7. Creation of a Hazardous Substance inventory as part of the Community Right-to-Know provision. (Failed 16 - 26)

In the House, Superfund debate now moves to the House Public Works and Transportation Committee. Subcommittee Chairman Robert Row (D-NJ) has had the staff working through the August recess preparing for early September markup. Environmentalists have been urging the committee to begin debate using the original Florio bill, which was rejected by the Energy and Commerce Committee. CMA has recommended the Committee begin from H.R. 2817.

The House Ways and Means Committee has tentatively scheduled markup for early September. In addition, both the House Judiciary Committee and the Merchant Marine and Fisheries Committee have been granted jurisdiction of the bill. This means that five major committees of the House will have considered Superfund before it goes to the Rules Committee and it is brought to the House floor. As a result, final passage is unlikely before September 30 and thus some lapse may well occur in the taxing authority. A 30 or 60-day delay should enable Congress to complete final action before the end of this year.

In the Senate, the Superfund bill, S. 51, was not brought to the floor before the August recess began as had been predicted. Delays occurred principally because Senators Domenici (R-NM) and Simpson (R-WY) wanted time to perfect amendments dealing with liability and insurance issues. These and a host of other amendments are expected to be considered while Superfund is on the Senate floor in September.

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REPORT OF THE PRESIDENT

* * *

ASSOCIATION PROGRAM AND ISSUE REPORT

I. ADVOCACY OVERVIEW

A. Congress

The President's offensive to hold the line on federal spending, fend off tax increases and quell the demand for trade protection will probably result in a number of vetoes this fall. Aides have reportedly begun laying the groundwork for possible confrontation with Congress over spending bills "in order to protect the economy."

After a lengthy debate, House and Senate conferees reached agreement on the first Budget Resolution for FY 1986, later adopted by the full House and Senate the same day. It would reduce the fiscal 1986 deficit by $57.5 billion. The agreement exceeds the $50 billion set by the Administration and Federal Reserve Board Chairman Paul Volcker, who testified that this amount in deficit reduction in FY 86 would be necessary to keep interest rates from rising.

A Cabinet shakeout appears likely to kicked off by the departure of Health and Human Services Secretary Margaret Heckler, possibly being replaced by Jack Svahn, the White House domestic policy chief. Another Cabinet member said to be targeted for replacement is Agriculture Secretary John Block. In the aftermath of President Reagan's surgery for cancer, White House Chief of Staff Donald Regan has been presiding over Cabinet meetings before the President arrives to sit in.

The President will make trips out of town three or four days a month to promote his tax reform plan and to stump for Republican candidates facing reelection.

When Congress returns from its August recess much attention will be focussed on trade. The protectionist legislation proposed thus far is directed chiefly against the Japanese, while the trade deficit with Canada and Europe is growing at a increased rate.

The Congressional adjournment date is uncertain, with several important issues on the agenda, including appropriations bills, the Farm bill, highway construction, budget reconciliation and Superfund.

B. Federal Regulatory Agencies

Environmental Protection Agency

Recently settled enforcement cases dramatize EPA's increased emphasis on rigorous enforcement of the Toxic Substances Control Act (TSCA).

Although EPA has been inspecting for compliance with all sections of TSCA, the largest fines have been levied for violations of the premanufacture notice and reporting provisions of TSCA. In one recent settlement, a substantial fine was reduced because the company voluntarily disclosed the violations and agreed to perform a company-wide audit for compliance with TSCA.

Since late June, EPA has been preparing a list of hazardous substances that it believes should be stringently controlled. Draft lists have ranged from 50 to 700 chemicals, depending on EPA's selection criteria. The list, expected to be published during September, will probably cover 100-200 substances, which will be the targets of EPA and OSHA inspections.

Federal Energy Regulatory Commission

On May 30, 1985, FERC moved to stimulate competition in natural gas markets by publishing a rule. Some parts of the rule are objectionable, but overall it could improve access to reserves from the outer continental shelf.

Occupational Safety & Health Administration

OSHA's new draft instruction (CPL 2.65) to Field Officers will establish a National Pilot Program for inspecting chemical plant processes. Field Officers are now being trained to conduct process safety inspections.

Department of Transportation

Senior officials in the Department of Transportation are considering recommending that the U.S. not continue its talks with the Consultation Shipping Group (CSG) of developed countries regarding a formal agreement to oppose cargo reservation. CMA favors continuation of the talks leading to a formal agreement, and is advocating its support to DOT and the other Executive Branch departments and agencies involved in the decision.

C. International

The Congress is increasingly angry about the ever worsening trade situation, but frustrated in finding a solution. The Representative Gibbons (H.R. 2451) bill dealing with the use of natural resources is strongly opposed by the Administration and parts of the business community. The legislative proposal by Representative Rostenkowski (H.R. 3035) to impose a 25 percent surcharge on imports has gained many supporters but is considered to be too extreme. The many anti-Japanese proposals are bolstered by the probable $50 billion trade deficit with that country. These measures seem too much a departure from traditional U.S. trade policy for the lawmakers. Meanwhile, the Administration is forced to deal with the myriad import problems on an industry by industry basis with remedies available in present law.

The U.S. continues to promote a new GATT round of tariff and non-tariff bargaining. It is winning support in Europe and with other countries. The Congress is reluctant but does not yet have the Administration's request for authority to proceed. This is predicted to come yet this fall with negotiations proposed to start in 1986. CMA is preparing its policy recommendations for the legislative process and for the negotiation phase.

The expected U.S. trade deficit of $150 billion in 1985 is lamented by everyone but no real solution is yet in sight. The slight decline of the dollar has raised some hopes for an early end to the trade problem. The dollar must drop much further down to make a difference and it will take many months after the drop to become a significant trade factor.

D. States

In 1985, the National Conference of State Legislatures polled more than 300 legislative leaders and legislative research directors asking what were the key issues challenging the 50 state legislatures. Budget and tax concerns ranked as the top issues for virtually every legislative agenda. Some states face tight budgets and are searching for new revenues. Others are considering the allocation of budget surpluses, tax reform and tax cuts.

In the natural resources area, the survey cited hazardous wastes as a top concern for state legislatures. Issues they expect to address include identification of disposal sites, transportation of materials, regulation of generators and clean-up efforts.

At a time when federal aid to the states is diminishing and economic pressures force austerity, state legislatures have worked to meet special program needs such as education and health care. While the financial industry is undergoing dramatic technological changes, legislatures are reshaping their regulatory structures and proposing statutes that recognize the shifting geographic boundaries of financial institutions. Many problems remain and major reform efforts may undergo further change in the coming years.

E. Media

The media have been focusing increasingly sophisticated attention on public health and safety matters. This concentration has been growing since before Bhopal and the recent accidental release at Institute, West Virginia.

According to researchers the media has been developing the theme of "corporate acts as the driving force in American society." The up side is that the public sees business as the problem solver of choice. The down side is the media loves to find feet of clay on the public's heroes.

Corporate governance issues have been among the top five covered by the national media. Unlike acute stories such as the Institute release, Reagan's health, airline accidents -- which may surge to higher levels in the top five -- attention to governance has remained steady over six to eight months.

The media have identified a growing separation between "grassroots activists" -- such Lois Gibbs' Clearinghouse on Hazardous Waste, the National Coalition Against Toxic Waste, Ralph Nader's Public Interest Research Groups (PIRGs) and Greenpeace -- and the so-called gang of 10 -- NRDC, Sierra Club, Wildlife, Audubon, Friends of the Earth, etc.

The "gang's" new manifesto, An Environmental Agenda for the Future, includes issues such as population control, trade policy, nuclear war and world hunger.

Activists say the traditional groups are becoming irrelevant to domestic environmental questions and have lost touch with the proven, time-tested confrontational approach to relationships with government and business. Recent accidents and incidents have strengthened the confrontational hand and could give the traditionalists second thoughts about their recent moves toward more business-like leadership and cooperative approaches.

II. ISSUES AND PROGRAM STATUS

A. SUPERFUND (CERCLA and Old Waste Site Cleanup)

1. Congressional Developments and Response

Senate Activity. The Senate Finance Committee has completed action and reported to the Senate floor a funding level and mechanism to S. 51, Superfund reauthorization. They approved freezing the current feedstock tax and imposing a Superfund excise tax (SET) on manufacturing. SET would apply to sales of tangible personal property by the person who manufactured or produced the property. The funding level is $7.5 billion for the next 5 years with $300 million from feedstocks taxes and $1.2 billion from SET per year. Also, the committee deleted general revenues from S. 51, mainly to deny funding for the victim assistance demonstration program.

The Senate Judiciary Committee, which was granted sequential referral of the referral of the bill, failed to make changes during their referral time period. Thus members of the Judiciary Committee may offer amendments on Superfund liability and settlements issues.

Senate floor action is expected to occur in September and number of amendments will be offered. Of concern to CMA would be amendments to alter the Finance Committee funding mechanism, that would expand the community right-to-know provisions and that would add general revenue to fund the victims assistance demonstration program. Also it is expected that Senator Robert Stafford (R-CT) will offer an amendment for he the insurance industry. It would eliminate insurance policy to coverage prior to 1980 for waste site cleanups and for insurance policies written after 1980 they would specifically state that waste cleanup is covered.

House Activity. The Energy and Commerce Committee reported Superfund reauthorization legislation, H.R. 2817, on July 25, The legislation represents support of a bi-partisan coalition led by Representatives John Dingell (D-MI), Dennis Eckart (D-OH) and Norman Lent (R-NY). Voting against reporting H.R. 2817 were Representatives James Florio (D-NJ), Henry Waxman (D-CA) and 8 other committee Democrats.

The legislation focuses primarily on cleaning up inactive hazardous waste and sites except in an emergency, gives EPA discretion in cleaning up each site, grants states new authority, requires health assessment at NPL sites and creates a community right-to-know.

The Public Works & Transportation Committee has completed hearings on Superfund and will begin mark-up in September. CMA testified twice before the Water Resources Subcommittee on the Superfund reauthorization issues and community right-to-know. The Judiciary Committee held two days of hearings on the settlement and enforcement issues and CMA testified. They will only have jurisdiction for a short time in September.

The Ways & Means Committee is not expected to schedule Superfund for consideration until after the other committees complete action. Representative Jim Jones (D-OK) has recently introduced the Senate Finance Committee's Superfund funding package, H.R. 3030. This means it is unlikely that a House-Senate conference can occur and a bill signed into law before the taxing authority expires on September 30.

The Superfund Task Group of CMA's Government Relations Committee continues to advocate CMA's position on both the funding portion and the programmatic portion of the Superfund issues. The chemical industry's concern over substantial increase in feedstock taxes is being heard in Congress and the probability of encountering positive increases in the feedstock tax appears to be diminishing. Much more discussion has developed in Congress about the possible need for some new broad-based tax. Both of these points were emphasized in the introduction of other bills in both the House and the Senate. But, an industry coalition has formed to fight against the enactment in Superfund of a broad-based tax, including the Finance Committees Superfund excise tax. CMA also continues to work actively with other industry trade associations to develop broad-based support for many of the issues.

2. Grassroots Activities

The Grassroots Program continues to respond to the changing legislative status of the Superfund reauthorization. During early 1985, most grassroots activity was targeted to Members of the Energy and Commerce Committee. Those efforts were apparent in the final Energy and Commerce Committee vote to report H.R. 2817. Of the fourteen Democrats who voted to report H.R. 2817, eleven had been targeted by the Grassroots Program. Only two targeted Congressmen voted against reporting H.R. 2817. All seven Republicans who had been targeted voted to report H.R. 2817. In total, eighteen out of the twenty members who had been targeted by the grassroots program voted to report H.R. 2817. A table summary of grassroots activities in the Energy and Commerce Committee follows.

THE ENERGY AND COMMERCE COMMITTEE

CONGRESSMAN/ DISTRICT	COALITION MEETING 1984	MET WITH CONG'MAN 1984	COALITION MEETING 1985	MET WITH CONG'MAN 1985	APRIL 17 1985 MEETING
MAJORITY					
*John Dingell, D-MI-16					
James Scheuer, D-NY-8					
Henry Waxman, D-CA-24					
Timothy Wirth, D-CO-2					
*Philip Sharp, D-IN-2	X				
James Florio, D-NJ-1					
Edward Markey, D-MA-7					
*Thomas Luken, D-OH-1	X	X			X
*Doug Walgren, D-PA-18	X	X	X	X	
B. Mikulski, D-MD-3					
*Al Swift, D-WA-2	X	X	X	X	
M. Leland, D-TX-18					
*Richard Shelby, D-AL-7					
C. Collins, D-IL-7				X	
*Mike Synar, D-OK-2	X				
*Billy Tauzin, D-LA-3	X	X	X	X	X
*Ron Wyden, D-OR-3			X	X	
*Ralph Hall, D-TX-4	X	X	X	X	
*Dennis Eckart, D-OH-11					X
*Wayne Dowdy, D-MS-4					
B. Richardson, D-NM-3					
*Jim Slattery, D-KS-2	X	X			
Gerry Sikorski, D-MN-6	X				
*John Bryant, D-TX-5			X	X	X
Jim Bates, D-CA-44					
MINORITY					
*James Broyhill, R-NC-10					X
*Norman Lent, R-NY-4					
*Edward Madigan, R-IL-15	X		X		X
*C. Moorhead, R-CA-22					X
*Matt Rinaldo, R-NJ-7	X				X
*W. Dannemeyer, R-CA-39					X
*Bob Whittaker, R-KS-5					
*Thomas Tauke, R-IA-2	X		X		X
*Don Ritter, R-PA-15			X	X	X
*Dan Coats, R-IN-4	X		X		
*Thomas Bliley, R-VA-3	X	X			X
*Jack Fields, R-TX-8			X	X	X
*Michael Oxley, R-OH-4					X
*Howard Nielson, R-UT-3					
*Mike Bilirakis, R-FL-9					X
*Dan Schaefer, R-CO-6					
*Fred Eckert, R-NY-30					

* Voted to report H.R. 2817

The Grassroots Program is now concentrating on the House Ways and Means Committee in addition to a few specific House Public Works and Transportation Committee targets. All companies participating in the Grassroots Program have been contacted requesting letters and plant-manager visits during August to all Members of these Committees.

In addition to Superfund activities, the CMA Government Relations Committee's Grassroots Task Group has established goals for the remainder of 1985 and 1986. These goals are as follows:

Goal 1:
Identify the issue or issues which will be the primary focal point for the grassroots program. (This will be recommended by the Government Relations Committee and approved by CMA's Board of Directors.)

Goal 2:
Determine what grassroots organization is best suited to influence the new issue or issues.

Goal 3:
Strengthen the grassroots structure and improve participation of Task Group Members, Grassroots Managers (GRMs), and Congressional Liaison Representatives (CLRs).

- Determine specific responsibilities of GRMs and CLRs.
- Broaden responsibilities of Task Group.
- Improve communications on issue/issues and results.
- Encourage more initiative.

Goal 4:
Conduct more training.

- Bring GRMs and/or CLRs to Washington to launch new issues, set goals, and conduct training (November 12, 1985).
- The Task Group Chairman, Task Group members and the CMA staff executive to provide on-site training to GRMs and CLRs.

Goal 5:
Establish targets and time frames relative to grassroots efforts on next issue or issues.

3. Regulatory Developments and Response

Draft Superfund Health Assessment Manual. The Superfund Implementation Task Group developed informal comments on EPA's draft Superfund Health Assessment Manual. The manual will be used by EPA personnel to guide the Agency's actions at site cleanups. Although generally supportive of the draft document, CMA's comments recommended several points to help improve the final EPA work product.

Draft EPA Guidance Document for Providing Alternative Water Supplies. The Superfund Implementation Task Group developed informal comments on EPA's draft guidance on providing alternative water supplies. The guidance manual will be used by EPA personnel to assist in Superfund site cleanup activities. CMA's informal comments were designed to correct substantive problems observed in the draft guidance document.

4. Communications

In a three month period, June through August, 84 national and regional media briefings have been completed by CMA/member company teams. That amounts to more calls than were completed in six months in 1984.

The editorial board response has again been positive with balanced editorial treatment in the key national press -- the New York Times, Wall Street Journal and the Washington Post -- as well as leading regional newspapers.

In addition to national releases special materials were targeted to specific states and districts. This localized material (Texas impact for Texas, etc.) went to 30 major market areas.

A new, and very successful approach, was for CMA to serve as an alternative network for distribution of information not covered by the commercial networks.

Thirteen Congressmen, fearing that reauthorization was in danger, crafted a compromise. Major national special interest groups immediately attacked the members in their districts for straying from a hard line.

CMA filmed the members' press conference; supplied same day television coverage to stations in their districts; surveyed usage and compiled a report; supplied the members with copies of the materials and records of use in their districts.

New areas are being targeted for Superfund media tours as Congress returns in September.

B. Public Compensation

Congressional Developments and Response

Product Liability. Senator John Danforth (R-MO), Chairman of the Senate Commerce Committee, has released a new staff working draft of product liability legislation. This effort is designed to break current deadlock on product liability legislation. The deadlock emerged in May when a motion to report Senator Robert Kasten's bill failed on an eight to eight vote.

The staff draft combines uniform federal product liability standards -- the focus of the Kasten bill -- with a new alternative claim system. This system provides an injured party with an alternative to litigation. Anyone harmed by a product could submit an expedited claim for a limited range of damages to the manufacturer. A manufacturer who pays these damages or declines to pay a claim solely because of a dispute over the amount of damages may not be sued for damages arising out of the same harm. CMA intends to submit its views on the draft to Senator Danforth.

C. Waste Handling and Disposal

1. Regulatory Developments and Response

Streamlining State RCRA Revisions. The RCRA Regulations Task Group developed comments on EPA's proposed regulations to streamline state revisions. CMA's comments supported EPA's regulatory reform proposals that procedurally simplify the rulemaking process.

Draft Toxicity Characteristic Leaching Procedure (TCLP). The Environmental Monitoring Task Group developed informal comments on EPA's TCLP methodology. The TCLP will be used by EPA for determining whether certain substances are hazardous under RCRA. CMA's comments identified technical and scientific problems with the methodology as it is presently set forth. The task group is working with EPA and other trade groups to refine the methodology so that it meets EPA's and industry's needs.

2. Technical and Research Activities

Solid Waste Technology Workshop. The Solid Waste Technology Task Group sponsored a workshop for solid waste experts. The workshop, attended by 40 member company representatives, provided an opportunity to discuss common problems and exchange ideas on solid waste technology matters.

Interassociation TCLP Research Project. The Environmental Management Committee approved participation in an interassociation project to study EPA's TCLP methods to verify the precision and accuracy of the procedures. Other organizations participating in the project are the American Iron and Steel Institute, American Mining Congress, American Textile Manufacturers Institute, Edison Electric Institute, and American Lead Industry. The goal of the project is to provide data and information that will result in revisions to the TCLP methods.

Waste Minimization Guidance. The RCRA Regulations Task Group developed a guidance document offering member companies recommendations on how to comply with the new RCRA waste minimization certification provisions. The document, rather than stating one way to comply, offers member companies options to be considered in developing a plan to comply with the requirements that take effect in November 1985.

3. Litigation and Related Activities

Definition of Solid Waste. On April 4, 1985, CMA moved to intervene in American Mining Congress v. Environmental Protection Agency, No. 85-1206 (D.C. Cir.) This case involves a challenge to EPA's new definition of solid waste, published as a final rule on January 4, 1985. CMA's motion to intervene has been granted.

CMA became involved in this case for two reasons. First, CMA has been closely associated with the development of the new definition of solid waste and therefore was interested in continuing this involvement to assure that our members' interests are protected. In addition, the final rule has deviated from the proposal in one significant respect: it brings within the definition of solid waste on-site reclamation activities that are a part of a chemical process. As a result, CMA members may be faced with having to apply for RCRA permits for many hundreds of reclamation processes and associated storage tanks. CMA has met with EPA to determine whether alternative regulatory schemes can be developed that will address EPA's concerns while excluding these operations which are clearly a part of chemical processes.

4. Communications

"Cleaning Up", the new waste site cleanup film, has been completed and is in distribution. The film is intended to demonstrate the progress being made in cleanup and features a roundtable discussion between Lee Thomas, EPA administrator, Bill Reilly, Conservation Foundation, Chuck Powers, Clean Sites Inc., Penny Newman, California environmental activist and Tom Hellman, former EMC chairman.

Initial distribution will be in 13 key "chemical" production states to commercial, cable and educational television stations and adult community groups. The community information task group of the Communications Committee is active in placing the program.

In addition member companies are using the film for internal audiences. With promotion just beginning, more than 50 films and tapes have been sold and 60 are being previewed.

D. Safe Drinking Water/Groundwater

1. Congressional Developments and Response

Safe Drinking Water

Senate Activity. The Senate bill, S. 124, introduced by Sen. David Durenberger (R-MN), amends the Safe Drinking Water Act. The bill focuses on setting drinking water standards and regulating public water systems. CMA generally supports S. 124, believing most of our concerns have been addressed. We particularly support the decision not to include comprehensive groundwater protection provisions. The bill passed the Senate by voice vote May 16.

House Activity. The House bill, H.R. 1650, introduced by Rep. Madigan (R-IL) passed the House by voice vote June 17. The bill differs from the Senate bill in two key areas: standard-setting and groundwater protection.

It looks as though the SDWA Conference will not take place until September. Although Congressional staff predict that the conference will go smoothly, there may be controversy over groundwater protection - a state groundwater planning program in the House bill (H.R. 1650) that is absent from the Senate bill. The Senate conferees are opposed to major groundwater protection provisions in the SDW reauthorization. Senator Durenberger wants separate federal legislation to protect groundwater and expects to introduce a bill in the fall (see groundwater section).

In addition the bills differ in standard setting, judicial review and authorization levels, but Hill staffers expect compromise on these issues.

CMA will be supporting the Senate bill over the House bill on three issues: standard setting, no comprehensive groundwater protection program, and the Senate critical aquifer demonstration program instead of the House sole source.

Groundwater

Senator Dave Durenberger (R-MN) has held three hearings as he prepares to introduce his groundwater protection bill this fall.

The first two hearings, held on June 17 and 20 were on groundwater quality and quantity, contamination and policy issues, and state efforts. The third hearing, focused on EPA's groundwater protection strategy, which calls for EPA to provide financial assistance to the states. Additional hearings will be held in Washington in September and October, which is when CMA will testify. Senator Durenberger plans on circulating a draft bill for comment in September.

2. Technical and Research Activities

Application of Risk Analysis to Groundwater Issues. The Risk Assessment Task Group conducted a review of the application of risk analysis concepts to groundwater issues. The review focused previous work in developing risk analysis methods on the specific problems associated with groundwater contamination. Future activity will identify the application of risk analysis methods to establish acceptable exposure levels to substances found in groundwater.

Definition of Key Groundwater Terms. The Groundwater Management Task Group developed a glossary of definitions of key groundwater terms. The definitions will assure consistent use of key terms in all CMA groundwater work products.

Groundwater Containment and Treatment Technologies. The Water Technology Task Group developed a summary of existing groundwater containment and treatment technologies. The summary is available to member companies and CICs for their use in addressing groundwater matters.

Alternate Supplies of Drinking Water. The Groundwater Task Group developed a paper on alternate supplies of drinking water where contamination exists. This paper is an elaboration of a previously approved Superfund position on alternate supplies of drinking water. The work product will be used by the State Affairs Committee in addressing state groundwater legislative matters.

Underground Injection Control Project. Seventeen companies have agreed to participate in a specially funded activity addressing potential bans under RCRA of the underground injection of hazardous wastes. The group includes CMA members and other companies that use underground injection as a disposal mechanism for a manufacturing facility. The primary objective of the group is to develop relevant technical data and information for submittal to EPA in order to impact on EPA's regulatory decision making process.

3. Communications

A committee task group has completed a communication and media relations plan for groundwater advocacy.

E. Government Control of Chemical Production/Innovation (TSCA)

1. Regulatory Developments and Response

Comprehensive Reporting. On July 17 and 30, EPA held public meetings to review a draft reporting rule that EPA plans to develop but has not yet formally proposed. EPA would issue the comprehensive reporting rule under the authority of Section 8(a) of the Toxic Substances Control Act (TSCA). The rule would establish an extensive list of questions and Agency procedures for making chemicals subject to the rule. Once the model rule has been established, EPA would tailor the rule to ask certain questions about particular chemical substances.

While such a model rule may establish consistent information requests to companies, the draft reporting form includes burdensome questions and questions related to EPA programs other than TSCA. As of yet, EPA has not developed an Agency procedure to prevent duplicative information requests under this draft rule. The Health and Safety Committee's Notification and Reporting Task Group is reviewing the draft and will submit comments to EPA in early October.

Negotiated Testing. From March through July, CMA, EPA, and the Natural Resources Defense Council (NRDC) worked to develop a procedure for negotiating test agreements and developing test rules under TSCA Section 4. This collaborative effort grew out of CMA's appeal of a District Court decision that invalidated EPA's previous procedures for negotiating test agreements under TSCA Section 4.

The guiding principle in developing this new procedure has been that test rules and negotiated testing agreements should be equivalent. Consent orders under TSCA Section 4 would be the primary mechanism to satisfy that principle. As with test rules, the consent orders would include requirements to ensure adequate and reliable data, would be enforceable, and would require export notification under TSCA Section 12(b). In addition to these features of the consent order, the new procedures would include an opportunity for public participation, an expedited schedule for negotiating and rulemaking, and a change in Interagency Testing Committee (ITC) procedures to provide sufficient time to either negotiate agreements or prepare rules on chemicals the ITC nominates to EPA for testing consideration.

In August, the final draft of the preamble and procedural rule were reviewed by the Health and Safety Committee. After sign-off by the parties involved, EPA will issue the procedures as an interim final rule in the fall.

2. Technical and Research Activities

PMN Exposure Assessment

The Exposure Assessment Task Group reviewed, commented on, and discussed with EPA that Agency's draft guidance for preparing engineering analyses. EPA plans to use the analyses to estimate exposures to PMN substances. EPA is now revising its guidelines and plans to seek additional outside review of the document.

Identifying Acute Hazards

CMA reviewed EPA's draft criteria for identifying acute hazards, and submitted comments to the Science Advisory Board. EPA generally followed a logical approach in its criteria, but used incomplete methods for assessing potential harm and potential exposure, failed to ensure the use of accurate data, omitted significant limitations in methodology from its discussion, and did not focus its criteria on the intended purpose for which materials were to be identified.

3. International Regulation

On August 21, CMA President Bob Roland and SOCMA President Ron Lang signed a joint letter addressed to the Administrator of EPA, Administrator of OSHA, Director of Office of OMB and the U.S. Trade Representative, transmitting for their information and use the finished work product of the Joint IAG/CEFIC/CCPA Work Group on Assessment of Chronic Hazards. This report represents the effort of a distinguished group of toxicologists from the U.S., Europe, and Canada to harmonize definitions on carcinogens, mutagens, and teratogens. The work was initiated over a year ago and required major coordinating meetings in both Brussels and Washington. It represents the first international agreement of industrial groups on terminology and is an excellent first step in developing better international cooperation between the U.S. and its major trading partners.

F. International Trade/International Competition

1. Congressional Developments and Response

Revision of Trade Remedy Laws

As he did in the last Congress, Rep. Sam Gibbons (D-7-FL) has introduced a bill to amend countervailing duty laws by defining as a subsidy the practice of using natural resource raw materials not available

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to foreign investors for the production of finished goods. This provision was included in a bill which passed the House by a sizeable margin in the last Congress. The natural resources provision was deleted by the House/Senate Conference which produced the Trade and Tariff Act of 1984. The current Gibbons bill (H.R. 2451) would require the U.S. manufacturer to prove that injury has occurred before countervailing duties could be imposed. The addition of this injury test is an attempt to achieve support from the Administration for the concept. The Administration, however, still views the proposal as protectionist and is opposing it.

The Trade Subcommittee of the House Ways and Means Committee has already held several days of hearings on the issue, and plans additional hearings in the fall.

The CMA Executive Committee declined to take a position on the natural resources issue at its March 6, 1984 meeting.

Import Surcharge

Representative Dan Rostenkowski (D-8th-IL) has introduced a bill which would impose an import surcharge on all goods from selected countries. The bill was introduced with 65 co-sponsors, but a substantial additional number of Congressmen are expected to also co-sponsor the bill. Hearings on this matter are planned for early Fall.

The bill would apply to all countries whose 1984 imports to the U.S. exceeded $14 billion. One half of this initial amount, or $7 billion, is to be indexed in future years to the 1984 U.S. Gross National Product. Any country which meets the above eligibility must keep its ratio of imports to the United States to exports from the United States below 1.5 (or ratios of world-wide imports to exports below 1.65). If it fails to do so, all imports from that country will be assessed a 25 percent ad valorem rate of duty which is in addition to any existing duty already in use.

Earlier this year, the Motorola Corporation proposed an across-the-board import surcharge for three years as a means of combatting the deficit. Such a proposal has yet to be introduced as legislation.

CMA's International Trade Committee has held preliminary discussions on the concept of an import surcharge. It appears that the Committee is opposed to an across-the-board imposition of additional duties, but it has not yet decided whether to take a position.

2. International Negotiations/Agreements

U.S./Israel Free Trade Agreement

The U.S./Israel Free Trade Agreement (FTA) has been passed by the Congress and signed into law. It becomes effective in September.

Under the provisions of the agreement, virtually all duties will be eliminated on goods imported into the United States from Israel. Certain import sensitive items, including most bromine chemicals, will have duties phased out over a ten year period rather than having them eliminated immediately. The FTA does require that goods imported from Israel must have had a minimum of 35 percent of the value of the good added in Israel. Also under the FTA, the U.S. International Trade Commission is required to conduct a study after five years to determine if any industries or products have suffered harm as a result of the agreement.

The CMA did not establish a position on this agreement because it was judged to be certain of success. However, member companies were kept fully informed of developments and of how they could take action in their own best interests.

G. Occupational Safety and Health

1. Congressional Developments and Response

Worker Right-to-Know. Rep. Joseph Gaydos' (D-PA) Health and Safety Subcommittee began hearings July 17 on concepts underlying his High Risk Occupational Disease Notification and Prevention Act, HR 1309. This bill, in essence crafted at the behest of the AFL/CIO, would require the National Institute for Occupational Safety and Health (NIOSH) to establish a system for identifying, notifying and preventing illness among workers who are at increased risk of occupational disease. Dr. Bruce Karrh, testifying on behalf of du Pont, expressed concerns about establishing an entire new bureaucracy for communication of hazard information which could be better handled by existing programs under OSHA.

CMA's Health and Safety Committee is reviewing HR 1309 and expects to testify in September when hearings resume. Congressman Gaydos has indicated he intends to complete hearings this year and report the bill out of committee early next year.

Occupational Disease Compensation. Rep. Pat Williams (D-MT) recently introduced HR 3090 which would establish an employer/manufacturer insurance fund to compensate workers who contract asbestosis and other occupational diseases. This is successor legislation to the Miller bill (HR 3175) of the last Congress. Strong AFL/CIO support of HR 3090 assures favorable attention by the House Education and Labor Committee. CMA's Health and Safety Committee will be reviewing the legislation, particularly its broadened occupational disease trigger mechanism.

Community Right-to-Know (RTK). In the Senate, Alphonse D'Amato (R-NY) has been working on a possible Superfund floor amendment to provide the government and the public with information about the potential dangers of hazardous substances and a coordinated system for emergency response. Senator D'Amato chaired a hearing of the Small Business Committee at which EPA, local government/emergency response officials, and small business testified as to their reservations about the inventory/emissions "mass balance" data reporting requirements in Senator Lautenberg's amendment to S 51 previously reported by the Environment and Public Works Committee. CMA is working with a coalition of small business associations led by SOCMA to achieve more practical legislative results. Concepts developed by the International Association of Firechiefs will be a key factor in Senator D'Amato's anticipated legislation. We expect to support Senator D'Amato's efforts. As soon as his language is finalized, a major effort will be made by CMA companies to generate support for the D'Amato approach as a constructive alternative to the Lautenberg amendments to S 51. In the meantime, Senator Lautenberg (D-NJ) introduced a new bill dealing with emergency response, S 1531, which he intends to offer as a floor amendment to Superfund. Although it is significantly scaled down from prior drafts, the new bill appears to raise problems which CMA's Health and Safety Committee will be reviewing during the August Congressional recess.

In the House, the Energy and Commerce Committee marked up and reported out HR 2817 with community RTK provisions essentially intact. The Material Safety Data Sheets (MSDS) were preserved as the vehicle for hazards communication. Emergency response provisions are consistent with CMA's CAER program. An inventory/emissions reporting amendment (similar to Senator Lautenberg's) was defeated by the Committee. Trade secret protection was made consistent with the OSHA hazard communication standard. The Committee approved a limited preemption of state and local laws adopted after August 1, 1985. A great deal of effort by CMA and its member companies resulted in a final RTK product by the Energy and Commerce Committee which we are generally pleased with and can support in the House as a better approach than other existing proposals.

Also in the House, the Public Works Subcommitte on Water Resources, chaired by Robert Roe (D-NJ), held a hearing July 25 on community RTK as part of its consideration Superfund. John Jones of Dow Chemical, and Chairman of our CAER task group, testified on behalf of CMA and stressed the need for a practical approach to emergency response. Members of the Public Works Committee are becoming interested in RTK/emergency response, and may wish to offer their own amendments as part of Superfund. We will be working with the business coalition to make them as close to HR 2817 as possible, or otherwise improve proposals in that Committee.

2. Technical and Research Activities

Labeling. The Health and Safety Committee's Labeling Task Group met August 1 to begin updating the 1982 version of the American National Standard for hazardous industrial chemicals/precautionary labeling. CMA will assume once again the role of canvassing sponsor for the standard. The major consideration of the Labeling Task Group will be to address the precautionary labeling of chronic hazards.

3. Litigation and Related Legal Activities

Hazard Communication Litigation. On May 24, 1985, the Third Circuit Court of Appeals ruled that the OSHA hazard communication standard preempts state right-to-know laws as they apply to manufacturers. United Steelworkers of America v. Auchter, 763 F.2d 728 (3d Cir. 1985). CMA intervened in the case to argue for preemption and to defend the standard's trade secret provision. The court left open the question of whether state right-to-know laws that cover employers beyond the manufacturing sector and that have community right-to-know provisions are preempted by the federal hazard communication standard. The Court said that question must be answered by examining each state law to determine if the provisions are "inextricably intertwined." There are two cases, pending in Pennsylvania and New Jersey, where preemption of right-to-know laws outside the manufacturing sector and in the community is an issue.

The Court also ordered OSHA to amend its definition of "trade secret" and in doing so, not to go beyond the common law definition. OSHA was also ordered to provide for employee access (both the manufacturer's employees as well as downstream employees) to trade secret information. The standard currently provides such access only to health professionals.

No party has petitioned the Supreme Court to hear the case. At this time, it appears there will be a new rulemaking on the trade secret issues, and OSHA will also publish an advanced notice of proposed rulemaking on the issue of expanding the scope of coverage of the standard, which was also ordered by the Court.

4. Communications

Institute: CMA received and responded to 400 media calls in five days following the accidental release at Institute. Spokesmen appeared on ABC's Nightline, CNN's Newsmakers, CBS's Nightwatch and a number of radio network programs. Assistance was also provided to CIC spokesmen for regional appearances.

Special marketing research techniques are being adapted to analyze audience response to industry messages about plant safety emergency response and risk management.

H. Clean Air

1. Congressional Developments and Response

Dingell Survey. CMA transmitted to Congressman John Dingell (D-MI) on June 21 responses to his April 3 letter requesting that CMA conduct surveys in three study areas regarding monitoring and detection of chemical releases into the air and emergency response systems among chemical plants. The transmittal to Dingell included the individual survey questionnaires which CMA member companies completed for approximately 90 chemical plants located in Baton Rouge-New Orleans, Philadelphia- Wilmington-South New Jersey, and Buffalo-Niagara Falls. CMA has written members of Congress whose districts fall within the survey areas to inform them about the survey and to indicate that they will receive CMA's analysis. CMA's Clean Air Act Task Group plans visits to the 22 members of Congress to deliver the analysis.

House Activity. The Toxic Release Control Act (H.R. 2576), introduced by Congressman Henry Waxman (D-CA), was the topic of two days of hearings in June before Waxman's Health and the Environment Subcommittee. CMA testified on June 11th that H.R. 2576 is not an effective and efficient approach to potential public health risks presented by the release of toxic chemicals into the air; that a bill must distinguish more clearly between large volume accidental release of acutely toxic materials and low-level exposures to substances over longer periods of time; and, that CMA is prepared to help Congress design appropriate legislation while continuing to develop and implement new initiatives to control hazardous air pollutants. Also during the June 11 hearings, Congressman John Dingell (D-MI) voiced strong opposition to H.R. 2576. At the other day of hearings, there were industry witnesses, representing aluminum, electric power, motor vehicles and consumer products. An effort to affix portions of H.R. 2576 to the Superfund legislation failed during mark-up in the Energy and Commerce Committee. Even if Waxman succeeds in getting a bill out of his subcommittee, full committee consideration seems unlikely.

Senate Activity. In the Senate, committee hearings might get under way this fall on clean air amendments as a whole.

2. Regulatory Developments and Response

Revised Particulate Matter Standard. The Air Pollution Effects Task Group developed comments on EPA's proposed revisions to the particulate matter national ambient air quality standard. CMA's comments highlight several scientific and technical deficiencies in the proposal. The final standard will be the basis for states revising the state implementation plan for particulate matter.

New Source Performance Standards. The Process Emissions Regulation Task Group developed comments on EPA's proposed air oxidation processes and distillation operations new source performance standards. These comments were in response to EPA's reopening the comment period and requesting additional comments on its TRE regulatory model. CMA was generally supportive of EPA's proposed approach on its cost-effectiveness model, although we offered several technical recommendations to improve its applicability.

Vinyl Chloride NESHAPS Judicial Intervention. The Environmental Management Committee authorized CMA's intervention in a judicial suit supporting EPA's proposed revisions of the vinyl chloride hazardous air pollutant standard. This litigation will resolve the question of whether EPA is properly interpreting Section 112 of the Clean Air Act in developing standards that assure an "ample margin of safety".

3. Technical and Research Activities

Dingell Survey Report. The Process Emission Regulations Task Group and its Monitoring Work Group have completed the analysis of a survey requested by Congressman Dingell of chemical industrial plant air monitoring. The survey was conducted in three distinct areas -- New Orleans-Baton Rouge, Niagara Falls, and Philadelphia-Wilmington-South New Jersey. The final report will be submitted to Congressman Dingell and to the Office of Technology Assessment.

Air Task Groups Sunsetting. The Environmental Management Committee disbanded the Air Regulations Task Group and the Toxics Integration Task Group. The activities of the Air Regulations Task Group will be conducted by a work group of the Process Emission Regulations Task Group. The activities of the Toxics Integration Task Group will be conducted by a work group of the Air Pollution Effects Task Group.

4. Litigation and Related Activities

Vinyl Chloride Litigation. CMA has moved to intervene in a court suit brought by the Natural Resources Defense Council (NRDC) challenging EPA's emission standards for vinyl chloride under section 112 of the Clean Air Act. This case will probably be the first to decide the meaning of the "ample margin of safety" test of section 112. NRDC contends that section 112 requires EPA to set "zero-risk, zero-emmissions" standards for all carcinogens. CMA and the American Petroleum Institute, who also intervened, will argue in support of EPA's position in the case, that the Agency is authorized to take cost and feasibility into account in setting emission standards under section 112. NRDC filed its brief on June 17, with EPA's response submitted on July 25. The CMA/API brief will be filed on August 19. A decision is expected by the spring of 1986.

I. Clean Water

1. Congressional Developments and Response

Clean Water Legislation. The Senate approved S. 1128 by a vote of 94-0 on June 13th. In the House, Congressman Robert Roe (D-NJ) worked out a block of committee amendments to H.R. 8 which CMA and industry representatives discussed with Roe. On July 23, the House passed H.R. 8 by a vote of 340-83. Despite the threat of a White House veto because of construction grant funding, it appears possible that Congress will complete work on S. 1128 before this session ends. S. 1128 and the House-passed version reflect CMA efforts for extensions, modifications deletions and report language clarifications. The bills are improved over original proposals in several areas CMA sought including: extended compliance deadlines; increased protection against citizen suits relative to administrative penalties; affirmative defense under criminal penalties; narrowing of the mandatory reopener requirements in NPDES permits; affirmation of the Fundamentally Different Factors (FDF) variance although with some procedural limitations; and a provision improving stormwater run-off requirements. CMA currently is preparing for conference activity in September.

2. Regulatory Developments and Response

Pretreatment. The Effluent Guidelines Task Group developed comments on EPA's proposed revisions to its pretreatment regulations. The proposal revises the definitions of "interference" and "pass through" for purposes of determining extent of pretreatment control necessary. CMA's comments generally supported the changes since they brought the definitions more in line with our original views on this matter.

EPA Biomonitoring. The Water Quality Criteria and Standards Task Group developed comments on EPA's biomonitoring study conducted in Lima, Ohio. EPA requested CMA to peer review the study. CMA's comments were generally supportive of the study and how it was conducted, and offered constructive comments on how to improve the report.

3. Technical and Research Activities

Effluent Guidelines Seminar. The Effluent Guidelines Task Group developed and conducted a seminar on EPA's proposed revisions to the organic chemical, plastics, and synthetic fibers effluent guidelines. The seminar was attended by approximately 150 member company representatives. Speakers were from the task group, CMA staff, CMA consultants, and representatives from EPA.

Permit Limitations Uncertainty/Variability. The Environmental Monitoring Task Group developed a technical paper highlighting uncertainty and variability in a wide spectrum of environmental areas. Of specific concern are NPDES permit limitations and the documented degree of uncertainty and variability that exists. The paper elaborates on this points since these questionable numerical limitations can form the basis for EPA enforcement actions and/or citizen suits with potentially significant penalties being imposed.

4. Litigation and Related Legal Activities

NPDES Citizen Suits. A federal district court in Virginia has issued the first civil penalty award in an enforcement case brought by a citizen under the Clean Water Act. The penalty was based on a series of permit violations that occurred over approximately three years. The court performed a lengthy, detailed review of the factual situation and assessed different penalties for various violations depending on the specific circumstances (ranging from $50/day to $4,000/day). The decision is being appealed to the Fifth Circuit Court of Appeals. If upheld, the ruling could serve as an important precedent for the many other courts now faced with similar citizen suit claims.

J. Chemical Product Distribution

1. Congressional Developments and Response

Hazardous Materials Transportation

The reauthorization of Superfund legislation and increased Congressional attention regarding hazardous substance and safety issues have intensified discussions pertaining to the transport of hazardous materials and emergency response. Hazardous materials transportation issues are expected to be included in hearings on environmental matters. Representative James J. Florio (D-NJ-1) has sponsored a measure that includes the creation of a federal regional training program on hazardous chemicals. Senator Frank R. Lautenberg (D-NJ) has offered legislation that requires contingency planning and an inventory of hazardous materials transported. He has also introduced a community emergency response and right-to-know bill that may be offered on the Senate floor as an amendment to the Superfund bill.

CMA is monitoring proposals affecting the movement of hazardous materials. Input is being provided for a Congressionally-mandated study by the Office of Technology Assessment. Discussions are being conducted with a hazardous materials advisory task group at the Department of Transportation regarding initiatives to insure more efficient and safe transportation of hazardous materials. CMA also continues to participate in a coalition with public and private sector groups in seeking a consensus approach to federal/state/local uniformity of hazardous materials transportation regulations.

Rail Competition

Hearings are expected to continue after the August recess in both the Senate and House Judiciary Committees regarding antitrust implications of railroad rate practice. The Rail Antitrust Monopoly Act offered by Senator Dennis DeConcini (D-AZ) and Representative John D. Sieberling (D-OH-14) is the subject of discussion and is undergoing redrafting.

Bills have been introduced that would curb high railroad rates and protect captive shippers by way of regulatory changes by Senator Russell D. Long (D-LA) and Mark Andrews (R-ND) and Representatives W. J. "Billy" Tauzin (D-LA-3) and Nick Jo Rahall (D-WV-4). Legislation that would set standards for rail rates and determining when rail carriers have market dominance has also been introduced by Senator Wendell H. Ford (D-KY) and Representative Rahall. Hearings have not been scheduled, but activity may occur in the session when the Interstate Commerce Commission (ICC) completes a rulemaking presently underway that addresses rail competition. The bills introduced have not received the support of the Administration. Some Congressional support is further present for linking rail competition issues and protection for captive shippers with legislative proposals under consideration to transfer Conrail to the private sector.

Differing views exist among the many shipping coalitions that have been formed as to whether the Staggers Rail Act of 1980 needs refinement, major amendment or left to proper implementation by the ICC. CMA continues to work to maintain and enhance rail-to-rail competition and insure proper implementation of existing law. Negotiations with the railroads have resulted in some agreement with regard to pro-competitive access issues. The agreement between CMA and the American Association of Railroads (AAR) has resulted in an ICC proposed rulemaking and would basically obviate the need for legislation on matters addressed. Discussions with congressional leaders and ad hoc groups continue as legislative measures are proposed.

Conrail

Bipartisan bills have been introduced that would sell the Consolidated Rail Corporation (Conrail) to an investor group formed by Morgan Stanley & Co., Inc. The legislation provided for the sale of the government's 85 percent share of the freight system for $1.2 billion and resale of at least 60 percent of the railroad to the public through one or more stock offerings within five years.

The Senate Commerce, Science and Transportation Committee reported bill would authorize the sale of Conrail to the Norfolk Southern Corporation. The Administration is supporting the private offering to Norfolk Southern as the result of a DOT approved bid process. Opposition to a Conrail merger with Norfolk Southern continues regarding antitrust/competitive implications and the tax benefits that would derive. Senate Judiciary Committee amendments to the Administration bill are expected, and there is indication that a filibuster could occur.

On the House side, the hearing process will continue after the August recess. The use of Conrail tax deductions as well as the antitrust aspects of a merger are under review by the House Ways and Means Committee and the House Judiciary Committee, respectively. Additional hearings will be held before the House Energy and Commerce Subcommittee on Commerce, Transportation and Tourism.

The Morgan Stanley plan, backed by Conrail management and rail labor, will be the primary focus of hearings in the fall. Supporters of amendments to the Staggers Rail Act to provide captive shipper protection may also attempt to link other rail issues with the passage of the sale of Conrail enabling legislation.

Concern has been expressed during hearings that provisions must be included in any Conrail sale agreement to assure competition. CMA has advocated the assurance of rail competition in the Northeast Corridor. The Morgan Stanley Company proposal for a public offering is supported by CMA as the most viable option for the disposition of Conrail.

2. Regulatory Development and Response

Conrail Acquisition. The Distribution Committee developed a position paper on the Administration's proposal to sell the Conrail system to the Norfolk/Southern Railroad Corporation. Of primary concern is the reduction in competitive service that may occur if Conrail is sold to Norfolk Southern. CMA believes a public sale of Conrail, as proposed by Morgan Stanley & Company, would not reduce competitive rail service in the Eastern U.S.; therefore, CMA supports the Morgan Stanley proposal.

3. Rates and Compensation

Tank Car Compensation. CMA, other tank car providers, and the railroads have successfully arrived at an agreement on the appropriate level of compensation for tank car use. This level of payout is $554 million. The issues of enforceability and the form and duration of the agreement have also been resolved. The joint agreement has been submitted to the ICC for rulemaking.

Rail to Rail Competition. A compromise agreement between CMA and the railroads on the issue of competitive access to shipping facilities has been reached. This agreement is intended to enhance the competitive alternatives available to chemical shippers by allowing rail carriers to compete for freight when they do not control the track immediately serving a plant.

CMA and the railroads have jointly petitioned the ICC to enact our agreement. CMA also submitted a supplemental petition to expand the scope of the rulemaking by including the concepts of proportional rates and terminal facilities. CMA participated in oral argument on July 18 and anticipates the ICC ruling on the issues by mid-September.

On July 17, the ICC issued a 4-3 decision in Midtec vs. CNW that, if upheld, could substantially undermine the benefits of the agreeme-- reached with railroads. The Commission ruled that before it will order competitive access for the competing carrier, the controlling carrier must be shown to be market dominant and charging an unreasonably high rate. CMA is considering intervening in the appeal of the Midtec case.

Product and Geographic Competition. Before a shipper may challen-- - rail rate as being unreasonably high, the shipper must demonstrate th-- the railroad has "market dominance" over the traffic. Two factors being considered are whether the receiver can obtain the product from other sources (geographic competition) or can obtain substitute products (product competition). On July 31, 1985, the ICC announced that it will modify its product and geographic competition guidelines. The major changes will be (1) that the railroad must bear the burden of proving these issues, and (2) the effect of geographic competition will be viewed differently, depending on whether the shipper is the receiver originator of the product. The ICC adopted a few of CMA's suggested changes to the proposed rules, but rejected our most significant changes, as well as CMA's petition for a supplemental rulemaking that would have applied a Herfindahl market share analysis to the market dominance issue.

Coal Rate Guidelines. The ICC recently adopted the criteria by which it will judge the reasonableness of coal rates. The criteria are likely to be proposed for chemical rates in a separate rulemaking soon. The criteria would permit a railroad to charge a rate based on what it would hypothetically cost the shipper to build and maintain a rail line for its traffic. The rate must also reflect contributions to the cost by other shippers and efficient operations by the railroad.

Argentina/Brazil Cargo Reservation Laws. CMA developed evidence demonstrating the adverse effects resulting from the cargo reservation laws enacted by Argentina and Brazil. Comments setting forth the industry's concerns were submitted to the Federal Maritime Commission. CMA participated in a delegation of government officials that undertook a fact-finding mission to Brazil to determine the anticompetitive impact of the Brazilian laws.

Chemical Bulk Parcel Rates. CMA is opposing efforts by chemical bulk parcel tanker operators to obtain antitrust immunity to collectively set rates. CMA believes that competitive pricing is essential and is filing comments before the Federal Maritime Commission and seeking legislative action toward this end.

4. CHEMTREC

CHEMTREC activity continues to be well above last year's levels. Total calls are running 32% above last year and emergency reports are 34%

above last year's totals for the period January through July. We believe the increases are a result of heightened awareness about the CHEMTREC program and increased public concern about incidents involving chemicals.

CHEMTREC Workshops. The third Emergency Response Team Workshop will be held in Baltimore, Maryland at the end of October. Instruction for this workshop will be handled by instructors from the Delaware Fire School.

CHEMNET. Based on a meeting on June 18, 1985, with CMA members, the CHEMNET Policy Statement and Agreement and the CHEMNET Operating Rules were revised and resubmitted to the membership on July 1, 1985, for their consideration.

As of August 16, we have received 20 participant agreements and 16 subscriber agreements from CMA members. These 36 companies represent a large percentage of the chemicals shipped in this country. We have also received verbal confirmation from approximately 10 additional companies that they would join the CHEMNET system. Therefore, we will be beginning the CHEMNET operations with almost 50 members.

We have also tentatively selected four emergency response contractors to act as the "for-hire" contractors in the CHEMNET system. These contractors have teams at locations throughout the United States and can reach most areas within 3 to 4 hours of notification. We hope to sign contracts with all four firms.

While 50 members and four contractors represent enough emergency response capability to start up the CHEMNET system, we must redouble our efforts to enroll more chemical companies into the system or the public will misunderstand and be disappointed by the coverage of the CHEMNET program. A campaign to enlist more companies has begun.

Chemical Referral Center. The Chemical Referral Center (CRC), which will become operational by the end of 1985, is designed to provide those that desire health and safety information about a particular chemical with a company contact that can furnish such information. The Distribution Committee has established a work group to oversee the operation of the Chemical Referral Center. Thus far, 93 CMA member companies have signed on to the program. Information pertaining to the chemicals and products they produce are being submitted to CMA. This information will be the foundation of a computerized chemical index that CMA operators will use to link products with manufacturers as a public service.

Lending Library. The training programs for emergency services personnel have been purchased for the lending library. A brochure listing the programs and how to obtain them is now available, and distribution to fire service organizations and members has begun.

First Responder Videotape Training Program. The script for the videotape training program has been approved and filming was started the week of August 19 at the Fairfax County Fire Training facility.

Emergency Response Terms. The final draft of the booklet on "Recommended Terms for Personnel Protective Clothing" was approved and should be available for distribution by the end of October. This document defines and illustrates terms used to communicate to the emergency responder the different types of personal protective equipment. The purpose of the document is to ensure clear and consistent communication between those who offer advice and those who respond.

5. Technical and Research Activities

Motor Carrier Safety Survey. Reception of this program by the shipping community and the carrier industry has been very favorable. Recently the Military Traffic Command expressed a strong interest in adopting the program for all defense shipments. A comparison of the accident frequency ratios of the surveyed motor carriers against all other motor carriers will be undertaken to determine whether the safety records are actually better than the national average.

6. Communications

Following a rash of incidents in transporting chemicals, CMA spokesmen have responded to media questions with statistics on safety and explanations of CHEMTREC.

Appearances on two national television programs on CBS and CNN were organized.

K. Energy and Petrochemical Feedstocks

1. Congressional Developments and Response

Natural Gas

The debate over natural gas issues is primarily concentrated in the regulatory arena where the Federal Energy Regulatory Commission (FERC) rulemaking process has intensified. FERC activity, particularly a proposal dealing with the transportation or carriage of gas, is under close Congressional scrutiny.

An amendment adopted by the Senate Appropriations Committee would prohibit FERC from putting into effect any rule dealing with gas transportation issues pending Congressional review between enactment of the energy and water appropriation bill and the end of the first session of the 99th Congress. Senator J. Bennett Johnston (D-LA) withdrew his amendment on the Senate floor after assurances made by the FERC chairman. Opponents of the appropriation amendment believe that FERC is proceeding under ongoing legislative authority and that limiting the scope of FERC action is an unwarranted intrusion in the independent regulatory process. The FERC will probably be allowed to conduct transportation programs while Congress is reviewing FERC's rulemaking. House energy leaders opposed the appropriations amendment, however, the House Fossil and Synthetic Fuels Subcommittee submitted several substantive questions to FERC regarding the rulemaking process.

Legislation unlikely to move quickly is pending in both the Senate and House. A bill introduced by Senator Don Nickles (R-OK) would repeal incremental pricing and fuel use restraints and decontrol the price of all gas under renegotiated or expiring gas purchase contracts. Senate oversight hearings on the status of the natural gas industry have been held in the Subcommittee on Energy Regulation and Conservation. A bill offered by Senator Bill Bradley (D-NJ) would require mandatory contract carriage by pipeline companies.

It is expected that House Energy and Commerce Committee Chairman John Dingell (D-MI-16) and Fossil and Synthetic Fuels Subcommittee Chairman Philip R. Sharp (D-IN-2) will hold oversight hearings on natural gas issues, including matters presently before the FERC. Repeal of gas incremental pricing provisions of the Natural Gas Policy Act (NGPA) and Fuel Use Act (FUA) restrictions are the focus of most attention in the House. Representative Jim Slattery (D-KS-22) and Dan Coates (R-IN-4) have introduced a bill that just repeal the natural gas demand restraints under the FUA and NGPA. Representative Bill Richardson (D-NM-3) and William E. Dannemeyer (R-CA-39) have proposed a more comprehensive measure that would repeal demand restraints, further deregulate and require contract carriage.

CMA continues to monitor legislative proposals and file comments and present testimony before FERC. CMA has requested that FERC act expeditiously on issuing a rule on nondiscriminatory transportation.

Oil Import Fee

A Congressional attempt was made before the August recess to propose an oil import fee as part of the Federal budget deficit reduction package. President Reagan flatly rejected the proposal, consistent with his stated desire not to increase taxes to reduce budget deficits. However, a continuing willingness has been demonstrated by key Senate leaders to consider some form of taxation on energy as a means to generate revenue.

Senate budget conferees offered a proposal that would impose a $5 per barrel levy on imported crude oil and a $10 per barrel fee on imports of refined petroleum products. The proposal was endorsed by Senate Majority Leader Robert J. Dole (R-KS), Senate Budget Committee Chairman Pete V. Domenici (R-NM), and Finance Committee Chairman Senator Bob Packwood (R-OR). Some Administration opposition to an oil import fee has been qualified and the negotiations over budget matters may revive interest in additional taxes on energy. Proposals that may be considered during budget deliberations include a broad-based consumption sales tax on energy, a BTU tax, a value added approach, an increased gasoline excise tax, crude oil excise taxes and oil import fees. A current market surplus of petroleum coupled with the OPEC price decline is also influencing the views of many in Congress.

Legislation that would impose a $10 per barrel fee on imported oil and refined petroleum products has been introduced by Representative James H. Weaver (D-OR-4) and Senator Gary Hart (D-CO). Senators David Boren (D-OK) and Lloyd Bentsen (D-TX) are also sponsoring legislation that would levy a tax on imported oil and oil products. A bill has also been offered by Representative Anthony C. Beilenson (D-CA-23) that would phase in a 50 cent a gallon excise tax on gasoline. Senator Lowell P. Weicker (R-CT) has offered a proposal that would phase in a 30 cent increase in the gasoline excise tax. No immediate action is expected on the bills introduced.

The economic impact of various energy taxes on the chemical industry continues to be monitored and reviewed at CMA. Key Administration officials have been contacted concerning the impact of energy taxes on the chemical industry. CMA advocacy and liaison with other industry groups is oriented in opposition to the imposition of new or additional energy taxes. A broad coalition has sent a letter to President Reagan reiterating opposition to any additional tax on energy.

2. Regulatory Developments and Response

Rulemaking on Transportation of Natural Gas. On May 30, 1985, the Federal Energy Regulatory Commission proposed a major rule with respect to the regulation of natural gas. The purpose of the rule is to require non-discrimination in blanket transportation programs and to encourage competition in natural gas markets.

CMA joined a broad coalition of industrial users in submitting comments on the proposed rule. These comments expressed support for the major policy directions and many of the details of the Commission's proposals. The comments, however, also urged several important modifications. In particular, the Commission should not adopt the Part D approach for separate billing of low- and high-priced gas.

In addition to written comments, CMA testified before the Commission on August 2. The testimony strongly supported the Commission's efforts to facilitate equal access to outer continental shelf gas and urged further actions in this regard. The testimony also criticized the Commission for failing to address the substantial regulatory obstacle created by incremental pricing. CMA urged the Commission to suspend the operation of the incremental pricing program for a definite period of time. Finally, CMA asked the Commission to withdraw Part D of the proposed rule. Eliminating traditional rolled-in pricing in favor of allocating and billing "old" gas separately from all other gas would create serious distortions in the natural gas market.

L. Taxation

1. Congress

Hearings on tax reform continued to be the principal issue in July for both the House Committee on Ways and Means and the Senate Committee on Finance. Although the cost of each of these provisions may vary from company to company, their combined impact to the chemical industry will exceed $2.5 billion annually. On July 30, Dexter F. Baker, Chief Executive Officer, Air Products and Chemicals, Inc., testified on behalf of the Association before the Committee on Ways and Means. In his testimony, which was followed by a 45-minute colloquy with several members of the Committee, Mr. Baker demonstrated a very credible knowledge of related tax and trade issues.

CMA's position on tax reform legislation may be briefly summarized in these key points:

- o Support of comprehensive tax reform and President Reagan's goals of economic growth, fairness and simplicity. However, the Administration's May 28, 1985 tax proposals fail to meet these goals.

- o The proposed shift of current individual tax burdens to corporations, and more specifically to capital-intensive corporations, will seriously damage the economy and the prospects for sustained growth.

- o In order to keep U.S. products competitive in domestic and world markets, U.S. manufacturers need capital cost recovery provisions comparable to those our foreign competitors enjoy. Thus, Congress should maintain the investment tax credit and Accelerated Cost Recovery System (ACRS) and should reject the recapture tax on the so-called "windfall" from accelerated depreciation.

- o The limit on foreign tax credits should continue to be determined on an overall basis. The proposed change to a country-by-country limit and the 17-year depreciable life for foreign assets would substantially increase the threat of double taxation.

- o The "title passage" test should remain the basis for determining the source of income for exports and similar sales. In addition, Congress should reject the proposed change in the allocation of interest expenses.

- o The 25-percent tax credit for research and experimentation should be extended as proposed by the President, and the moratorium on allocation of research and development expenses under Regulations 1.861-8 should be made permanent.

The House Senate compromise on a Joint Congressional Resolution on the Budget for Fiscal 1986 has cooled a threat that an oil import fee or tax increase proposal would be adopted to gain control over mounting Federal deficits. President Reagan's efforts to secure a compromise on the Congresssional budget resolution have undercut support for his tax reform plan among Senate Republicans, many of whom contend that the President sacrificed a tough Senate budget stance without first obtaining offsetting savings from the House Conferees.

Senate and House leaders have attacked both the fairness and the revenue neutrality of the Administration's tax proposal. Senate Finance Committee Chairman Bob Packwood (R-OR) has argued that the proposal's provisions to repeal the deduction of State and local taxes and the special deduction for married couples in which there are two wage earners would increase taxes for many middle-income taxpayers. Citing the revenue estimates by the staff of the Joint Committee on Taxation, House Ways and Means Chairman Dan Rostenkowski (D-IL) called upon the Administration to identify where additional revenues could be raised to maintain the promised revenue neutrality of the overall program. Both challenges would appear to have had a major impact on the Congressional tax reform debate. Under these circumstances, Congress could have greater latitude "to pick-and choose" from the President's tax program in fashioning a Congressional vehicle.

Anticipating that the Ways and Means Committee could begin the selection of the specific components of a tax reform bill as early as September, CMA is developing its plan for further early action on this important legislation.

The Washington business community is divided on the merits of the President's tax proposal. As the elements of a Congressional tax alternative become more definite, the opportunities for greater business unity will increase significantly. CMA continues to coordinate its efforts on tax legislation with allied business and trade groups.

M. Plant Management and Design

Technical and Research Activiti~~

1987 National Electrical Code. This code is mandatory for a large number of cities, counties and states and it has a significant cost and safety impact on CMA members. The Electrical Codes and Standards Task Group will prepare CMA comments at its September 24 and 25 meeting and member companies are also encouraged to submit comments. Historically, CMA participation in this activity has resulted in improved safety and $100 million per year cost savings for members.

National Electrical Manufacturers Association Liaison. CMA reviewed the NEMA Standard Procedure for Evaluating Ground Fault Circuit Interrupters for Response to Conducted Radio Frequency Energy. CMA recommended that the procedure should be developed to guarantee that ground fault circuit interrupters will not be susceptible to conducted or radiated radio frequency energy.

UL 486E. CMA reviewed the UL Standard for Safety Equipment Wiring Terminals for Use with Aluminum and/or Copper Conductors. CMA objected to a proposal that this standard be recognized as an American National Standard because, in our view, the test procedure should be further developed to provide for testing these terminals under actual field conditions.

N. Patents and Protection of Technology

Congress

Process Patent Legislation. Process patent legislation has been introduced in both the House (H.R. 1069, introduced on February 7, 1985, by Congressman Carlos Moorehead (R-CA)) and Senate (S. 1543, introduced on July 31, 1985, by Senators Mathias (R-MD) and Lautenberg (D-NJ)). CMA has endorsed neither bill. However, CMA has supported generally the need for enactment of legislation which would give the owner of a process patented in the United States the right to bring a suit for patent infringement against a party who imports a product that is manufactured abroad by using the process.

O. State Legislative and Regulatory Activity

1. Superfund

Missouri. Missouri's method of paying for hazardous waste cleanups will change in 1987 under a law signed by Governor John Ashcroft. The hazardous waste cleanup program currently is funded with an employee tax imposed on each hazardous waste generator. Under the new statute, the "head tax" will be replaced by a waste volume tax effective January 1, 1987, or earlier if receipts to the remedial fund fall below $1.5 million annually. Hazardous waste which is landfilled or stored will be taxed at twice the rate for treated or recycled waste. Missouri's Hazardous Waste Management Commission is directed by the new law to set the tax rates to generate approximately $1.5 million from the fees. In addition, the statute requires the director of the state Department of Natural Resources to request general revenues or federal funds equal to at least one-third the amount levied against generators.

Vermont. A tax on hazardous waste generated in Vermont took effect July 1 to finance a state fund to clean up hazardous waste sites. In addition to creating a state Superfund, the law subjects industries to strict, joint and several liability for cleanup costs. Under the law, the state does not have to prove negligence in order to hold a party liable for cleanup costs. Those responsible for disposal or contamination of any part of a particular site can be held liable for the entire cleanup cost. The Superfund will be used for remedial action, investigations, removal of waste, spill control and reimbursement of expenses by local governments and others.

Texas. A comprehensive program to regulate the disposal of hazardous waste and charge fees for the generation and disposal of hazardous waste was signed into law in Texas. Industry succeeded in securing several provisions such as changes to the permitting process. An applicant now only needs one permit for storage, processing, treatment, disposal or destruction of solid or hazardous waste. Another provision prevents local governments from adopting a rule or ordinance that is inconsistent with the state law.

As a result of the legislation, two funds are created in the state treasury - the Hazardous Waste Generation and Facility Fee Fund and the Hazardous Waste Disposal Fee Fund. Facility fees are to be set at $250-$20,000 per year. The generation and facility fund is not to exceed $35 million a year. The Hazardous Waste Disposal Fee Fund imposes a $4 per dry weight ton fee on hazardous waste disposal at a land disposal facility. The bill, however, places a $10 million cap on the fund at the end of a quarter. Funds collected from the disposal fee are to be appropriated for the state/federal match for CERCLA and for state-only cleanup activities.

2. Public Compensation

Minnesota. Amendments to the state's Superfund statute were recently enacted including a $2 million victims compensation fund. Among the bills key provisions were:

- o Repeal of the causation clause which required a defendant in a toxic tort case to prove that it did not cause the injury.

- o A change in the retroactivity provision for personal liability from January 1, 1960 to July 1, 1983, the date the Minnesota Superfund law went into effect.

- o Repeal of the joint and several liability provision. Conferees, however, deleted a provision that would have limited the number of times a party could be found joint and severally liable.

The victims compensation fund, authorized at $2 million, will be financed through general revenues, although the state can seek repayment from responsible parties, if known. Victims can recover up to $250,000. Claims can be submitted for unreimbursed medical expenses, loss of wages or loss of household labor. The law also provides that survivors can receive up to $24,000 a year or $2,000 a month. Additionally, persons with contaminated water can recover up to $25,000 for either a new water supply or for decontaminating existing water resources. If there is a decrease in the market value of a principal residence due to contamination, a person can recover up to 75 percent of the loss or $25,000, whichever is less.

In order to achieve the favorable changes in the existing liability provisions, industry in Minnesota agreed to the compensation fund and strongly supported the bill.

Other States. Amendments to California's 1981 victim compensation law were also enacted recently. These changes moderately expanded the program but did not provide significantly more exposure to the industry. Activity is still underway in Massachusetts where a bill may be considered in the next six months.

3. Hazardous Waste

Michigan. In an effort to discourage the use of landfills, while promoting alternatives, Governor James Blanchard recently proposed the imposition of a $10 per ton fee for hazardous waste disposed in landfills beginning in 1985. The fee, which could be reduced by 50 percent if the waste is treated, would generate an estimated $2 million in state revenue which would be applied to additional permit staff and enforcement. The proposal would also establish a notification, education and inspection program to assist with the disposal for smaller quantities of waste.

California. A report by the state's Commission for Economic Development, chaired by Lt. Governor McCarthy, estimates that it will cost California $4 billion per year for managing hazardous waste. The commission's report proposed "the 1990 plan" for improving the management of toxic chemicals in California and minimizing long term costs. Key elements include reducing the volume of waste sent to dumpsites and developing new technology for treating waste. Additional short term measures recommended by the commission include assurance that adequate liability insurance is available for businesses that produce or dispose of hazardous waste, tougher drinking water standards for the 30 most widespread toxic contaminants and increased support for technologies that reduce toxic chemicals in drinking water.

The commission said it will sponsor or recommend legislation to accomplish the plan's objectives. One proposal would allow the Department of Health Services to waive state imposed fees on land disposal of hazardous waste, up to $60 per ton, for any company that substantially reduces the volume of hazardous waste disposed of in dumps. Another proposal would create a state certification process for hazardous waste management technologies that are considered economically effective and environmentally safe.

South Carolina. Governor Richard Riley recently signed legislation that increased the state's contingency fund and placed a fixed limit on the amount to hazardous waste disposed of in the state. The legislation more than doubles the fee per ton of hazardous waste disposed of by landfilling or other means of land disposal, raising the tax from $5/ton of wastes generated in state to $13/ton. For out-of-state waste received at a facility, the tax increases from $7.50/ton to $18.

Iowa. Although Iowa was one of the first states to receive interim authorization over its hazardous waste program, the state has now become the first to voluntarily withdraw this authority with the program reverting back to EPA. Due to severe financial shortfalls in the state, the Legislature approved an appropriations measure that deletes funding of the hazardous waste program for two years. Because of this legislation, EPA found the state lacking authority to administer the program after July 1, and suspended Iowa's authority to issue RCRA permits. Iowa will retain authority over the state's abandoned and uncontrolled sites, used oil, site licensing and collection of hazardous waste fees.

4. Right-to-Know

State Legislation. The issues of chemical hazard information disclosure in the workplace and the community and local emergency response planning, have had a very high profile during the 1985 state legislative sessions. Through the end of July, over 150 right-to-know bills have been introduced in over 35 states.

Since most legislatures have adjourned for the year or are in summer recess, it is possible to begin to summarize activity in this area. To date, 22 states have passed some form of a right-to-know law this year. Ten of the new laws establish comprehensive worker, community and/or emergency response programs. These laws were enacted in: Alabama, Louisiana, Missouri, Montana, North Carolina, Oregon, Tennessee, Texas, Vermont and West Virginia.

Five states have passed laws which add community right-to-know or emergency response requirements to worker right-to-know programs enacted in previous years. These are: Florida, Illinois, Maine, Maryland and Washington. Seven additional states have passed laws which make minor changes to existing right-to-know programs. Several states meet in year-round sessions. Of these, New Jersey is debating community right-to-know legislation, California is considering re-authorization of its existing program and Michigan is considering a comprehensive law.

Session Review. The task group is beginning to assess the 1985 state legislative session by reviewing the right-to-know legislation that has been enacted. Preliminary indications are that the new comprehensive laws passed in 10 states are generally consistent with CMA policy on worker and community right-to-know. Most of the laws are based on the Federal OSHA Standard as they apply to manufacturers, and contain community and emergency response requirements which could blend with CMA's CAER initiatives. The task group is developing advocacy documents to be used in the states which incorporate CMA's policy in this area. An update of the right-to-know state law compilation is also being prepared which will include all new legislation passed in 1985.

State Litigation. Court actions are pending in two states, as industry begins to force states to recognize the Federal OSHA Standard preemption over state law, as it applies to manufacturers. Oral arguments were heard on June 18 in the appeal of the New Jersey decision upholding federal preemption, (New Jersey State Chamber of Commerce et al v. Hughey). In Pennsylvania a group of regional manufacturing associations filed suit on July 19, asking the U.S. District Court to grant an injunction against the State Department of Labor and Industry, prohibiting the further implementation and future enforcement of that state's worker and community right-to-know law. No action has occurred on this suit as yet.

5. Groundwater

Ohio. The governor recently released a report which defines the administration's goals and objectives for environmental protection and natural resource development. High on the governor's priority list is the cleanup of contaminated ground and surface water to protect the safety of public and private drinking water. It is anticipated that this initiative will be addressed in a bill to be introduced in the General Assembly later this year. Separate legislation will be introduced that will focus solely on the protection of groundwater.

New Jersey. The New Jersey Senate Energy and Environment Committee has passed a bill which allows homeowners to petition the state to provide alternative water supplies when wells are contaminated. Under the legislation, a homeowner could also petition the Department of Environmental Protection to test a well for potential contaminants. Funds for replacing contaminated systems would come from the New Jersey Spill Compensation Fund and a $10 million appropriation from general revenues. The New Jersey Chemical Industry Council testified on the bill cautioning that Spill Fund monies should not be used for unnecessary well testing. Amendments to the bill from the DEP are expected.

Other Activities. Members of the Hazardous Waste/ Groundwater Task Group recently participated in the National Conference of State Legislatures annual meeting. CMA's position papers on groundwater standards and groundwater monitoring were highlighted during a session on leaking underground storage tank discussions. In addition, task group members and CMA staff participated in discussions with the Association of Washington Business on upcoming testimony on proposed drinking water standards.

6. Transportation

New York. A legislative package regulating the transportation of hazardous materials in New York failed to gain passage. The Legislature, however, approved and sent to the governor a bill to establish a board composed of private and public sector representatives to review certain aspects of the hazardous materials transportation issue. The board would make recommendations to the Legislature and the governor within a year.

Two cities -- Denver, Colorado and Columbus, Ohio -- have passed ordinances controlling the shipment of hazardous cargos, through their confines. Denver's City Council passed an ordinance which designates routes for class A or B explosives, some poison materials, organic peroxides and radioactive materials. Permits, as of July 1, are now required for trucks carrying hazardous materials through the city. The cost of the permits will be determined by degree of risk, quantities being transported as well as additional factors. Applicants must designate a specified route for their trip and show proof of liability coverage to get the permits which will last for a year.

Columbus, Ohio has implemented an ordinance which requires through shipments of hazardous materials to use a bypass around the city and specifies hours of delivery and permits for deliveries of hazardous shipments in the downtown area.

The city anticipates that there will be limited requests for such permits but the permit mechanism will result in better emergency preparedness since emergency personnel can be better informed of specific shipments of hazardous materials in heavily populated areas.

Hazardous Materials Transportation. Members of the task group are continuing to work with members of the Good Samaritan Coalition to promote the passage of good samaritan legislation in the states. In addition, members of the group are working with individual state legislators in New Jersey, North Carolina and Georgia to expand existing legislation to cover all hazardous materials, not just LP gas.

7. Toxic Air

State Legislatures. The two issues receiving the most scrutiny at the state level in 1985 are acid rain and toxic air contaminants. Legislation to require an inventory of nitrogen oxide emissions and their effect on the environment was enacted in Maine. Other states which have passed resolutions to study the acid rain issue are Minnesota, Virginia, Washington, Massachusetts, New Hampshire and New York.

Laws which require programs to regulate air toxics were passed in Arizona and Rhode Island, and in California, a law was enacted which would tax air toxics emissions in order to pay for state regulatory programs.

Hazardous air emission inventories have also been a part of the right-to-know debate at both the state and federal level. A comprehensive right-to-know law, recently enacted in West Virginia, includes provisions which require certain manufactures to consolidate all federal, state and local air emissions permits and provide them to the state. In Florida, legislation was passed which requires air emissions inventories, and in Illinois, a bill to inventory emissions of 85 chemicals was narrowly defeated in the closing days of the session.

State Regulation. Programs to regulate toxic air contaminants are being developed and implemented in nearly 40 states. Connecticut continues to work on its final draft plan, and Vermont has recently released its plan to regulate hazardous air contaminants. Industry groups are closely monitoring these activities.

Strategy Development. In conjunction with the Environmental Management Committee's focus on a CMA air toxics work plan, the State Affairs Toxic Air Task Group is preparing strategies to work the issue in the states. A system is being established to closely monitor the legislative and regulatory activities in specific high-priority states and the task group is being expanded to include member companies with activities in these states. Communication programs will be developed which can be used to advocate CMA policies at the state level through member companies and chemical industry councils. The task group is also working with various technical task groups to integrate state legislative and regulatory perspectives into CMA's toxic air pollutant program.

?. Specific Chemical Research and Advocacy

1. Advocacy Highlights

Allyl Chloride. The Program Panel decided to disband after 10 years of activities. The Panel undertook toxicologic research projects to evaluate toxicity potential and submitted research reports to government agencies. Regulation by EPA is possible under the Clean Air Act; however, because of low toxicity and exposure potentials, the Agency has placed allyl chloride at a very low priority. The Panel may reconvene when the Agency initiates activities on the chemical.

Dibenzofurans/Dibenzodioxins. The DF/DX Panel submitted comments to EPA on plans for a TSCA Section 4 monitoring test rule. While the Panel informed EPA that it questions the Agency's authority to require manufacturers to analyze products for trace contaminants, they indicated a willingness to cooperate to develop a reasonable test rule. The Panel advocated the need for an analytical round robin to demonstrate reasonable analytical parameters for a test rule. The Panel's Analytical Task Group then met with EPA technical staff to discuss the comments. The proposed rule is scheduled to be published by EPA in November 1985.

Dow Chemical Company hosted an educational seminar for the DF/DX Panel and Task Group members in Midland, Michigan. Various representatives from Dow Chemical Company and Monsanto Company presented the latest information on the health and environmental effects, and the fate and environmental sources of dioxins and furans. Tours of Dow's Analytical and Toxicology laboratories were also arranged for the attendees. The seminar was extremely successful and provided the Panel with a technical base from which to develop its comments on various EPA proceedings.

Ethylhexanoic Acid. The EHA Panel submitted comments on the proposed test rule on ethylhexanoic acid. The rule proposed subchronic, developmental and pharmacokinetics testing based upon concern that dermal exposure might occur during processing. EHA is used solely as an intermediate in the synthesis of other chemicals and is manufactured and consumed entirely in enclosed systems.

The Panel commented that exposure to EHA is so limited that there is no likelihood that EHA could pose a significant risk to workers, regardless of the outcome of the proposed testing. To obtain additional information on potential exposure, the Panel is sponsoring a survey of users.

The Panel also commented on the rationale for requiring testing, stating that the subchronic and developmental testing is unjustified and the pharmacokinetics testing is needed only if effects are found in other tests. Finally, the Panel recommends streamlining the proposed pharmacokinetics testing to provide data in a more timely and cost-efficient fashion.

Fluorocarbons. In June, the companies supporting the Fluorocarbon Program approved a $1.815 million budget for calendar year 1986. This is a 3.5% increase over the 1985 budget.

Also in June, the Panel released Revision 21 of its "SUMMARY: Research Program on Effect of Chlorofluorocarbons on the Atmosphere." This annual publication details all research funded by the Panel in its thirteen-year history.

In August, the Panel submitted comments to EPA on four draft documents prepared as part of the Environmental Impact Statement on the effect of control measures for the protection of the ozone layer. EPA and the Department of State are conducting the EIS as background to the U.S. position on activities under the UNEP Convention for the Protection of the Ozone Layer. In addition, a UNEP resolution, calling for further study to address both short- and long-term strategies, is being implemented. A UNEP Steering Committee meeting is planned for September 17-18, 1985, in London, to organize workshops to be held within the next year.

Glycol Ethers. A Work Group of the Glycol Ethers Panel met with EPA staff to address remaining technical concerns with industry data submitted in response to a TSCA Section 4 ANPR on diethylene glycol butyl ether and its acetate. EPA plans to announce its decision on testing needs in the fall, and a Federal Register notice is expected in spring 1986.

The National Toxicology Program has three glycol ethers and their respective acetates under review as candidate chemicals for testing in the Program. The Panel is maintaining a close liaison with NTP and will attempt to establish a CMA/NTP Work Group if the chemicals are recommended for testing by the NTP Executive Committee.

Three triethylene glycol ethers appeared on the 16th Interagency Testing Committee list of priority chemicals recommended for testing under TSCA Section 4(a). Panel members attended the EPA Public Focus Meeting and presently are involved in information-gathering. It is possible that the Panel will sponsor dermal absorption studies on these compounds in advance of an EPA test rule proposal.

Ketones. The Ketones Panel members met with EPA scientists in June to discuss differences in interpretation of the mutagenicity test data on MEK and MIBK gathered as part of a negotiated testing agreement. The Panel considers the ten mutagenicity tests to indicate no need for further testing on the two compounds. Extensive comments backing the Panel's position were filed with the Agency. The EPA will respond by the end of this year.

Methylenedianiline. The MDA Panel submitted comments on OSHA's draft Federal Register notice announcing the Agency's plans to form a negotiated Rulemaking Committee on MDA. OSHA intends to establish a committee under the Federal Advisory Committee Act to negotiate issues leading to a proposed rulemaking on MDA. The committee is to include representatives of the parties interested in or affected by the outcome of the rulemaking.

Naphthenates. The Naphthenates Panel completed the first phase of its dermal absorption study on lead and cobalt naphthenates. The results have been submitted to EPA under a 1984 agreement with the Agency. The Panel and EPA will discuss the need for additional testing in the near future.

Octylphenol. The Panel is reviewing EPA's comments on a protocol for an aquatic chronic effects study of octylphenol in rainbow trout. The Panel intends to start testing within the next several weeks.

Oleylamine. The Panel recently completed a mutagenicity test on oleylamine and found the chemical to be devoid of mutagenic potential in this test system. The report of the Panel-sponsored research was submitted to relevant agencies.

Phosgene. Representatives of the Phosgene Panel's Engineering and Safety Practices Task Group met with the Department of Energy and their contractor, Lawrence Livermore Laboratory, to discuss conducting an air dispersion study of phosgene. The Panel is interested in using the DOE's new Liquefied Gaseous Fuels Spill Test Facility to evaluate various mitigation devices for accidental phosgene releases and to assess different air dispersion models currently available. The facility is being constructed at the DOE Nevada Test Site.

Phthalate Esters. On behalf of the Phthalate Esters Panel, Dr. Joseph Rodricks, of Environ Corporation, Mr. Derek Till of Arthur D. Little, Inc., and Dr. Bernard Astill of Eastman Kodak Company made presentations to the Chronic Hazard Advisory Panel of the Consumer Product Safety Commission. The scientists addressed three key issues concerning the health effects of DEHP -- toxicology, exposure, and risk assessment. Dr. Rodricks, a leading expert in risk assessment, concluded that the individual lifetime risk associated with DEHP-containing children's products is probably less than one in one hundred million. According to Mr. Till, ADL concluded that while the CPSC exposure study is a useful contribution to the literature, it is inadequate to form the basis for an exposure assessment. Dr. Astill emphasized that there is overwhelming evidence that DEHP is not a genotoxic material.

Subsequently, the CHAP completed its draft report on DEHP and released it for public comment. The report concludes that DEHP is a non-genotoxic carcinogen with induction of peroxisomes as its probable mechanism of action. This mechanism, while not proven, would result in a threshold of exposure to DEHP below which there is no risk. The CHAP recommended that research on mechanism of action and exposure continue.

The Phthalate Esters Panel decided not to proceed with the second phase of its environmental effects testing program, which was part of the 1982 negotiated testing agreement with EPA. The Panel decision resulted from a meeting with the EPA Test Rules Development Branch (TRDB) in May. TRDB said that it did not intend to review the Panel's Phase I proposal before fall 1985. Furthermore, the Agency revealed an intention to publish a proposed test rule on butyl benzyl phthalate in October. The proposed rule will prescribe substantially more testing than was agreed to in the negotiated testing agreement. The additional testing would include all studies that are required to establish a Water Quality Standard on BBP.

In a letter to EPA Assistant Administrator Dr. John Moore, the Panel stated that it is concerned that EPA might adopt a similar approach on other PEs. Efforts to perform further environmental testing are therefore suspended until the situation is clarified.

Titanium Dioxide. The National Cancer Institute has begun a feasibility epidemiology study of titanium dioxide workers. Industry is cooperating fully in this study to provide NCI with necessary information to make a decision on whether to undertake a full epidemiology study. NCI's decision is expected in March, 1986.

2. Community Awareness and Emergency Response (CAER)

1. Program Activiti--

CMA has sponsored seven CAER Workshops. The workshops were held in San Francisco, CA; Houston, TX; New Orleans, LA; Chicago, IL; Newark, NJ; Atlanta GA; and St. Louis, MO. Over 1500 CAER coordinators and plant managers attended these workshops. In addition, CMA provided industry briefing teams to, and cosponsored regional CAER workshops with, the West Virginia Manufacturers Association and the Michigan Chemical Industry Council.

Over 164 member and nonmember companies have assigned CAER coordinators. During August, CMA will ask the CAER coordinators to identify the number of sites participating in the program and the number that have achieved the first CAER milestone. The target date for the first milestone was July 1985. To achieve the first milestone, plant managers will have reviewed the CAER handbook, attended a CAER workshop, and initiated discussions with local officials to set up coordinating groups.

To assist CAER coordinators and plant managers in their community outreach efforts, CMA has prepared a videotape, 35mm slide presentation and CAER brochure. The Communications Department is making these materials available to the industry.

CMA is coordinating CAER's implementation with federal agencies. The response is supportive. In fact, CMA presented the CAER and NCRIC programs at a Federal Emergency Management Agency (FEMA) teleconference on June 25. The teleconference was broadcast to over 60,000 state and local emergency response officials, industry representatives and elected officials.

2. Communications

Significant staff attention is being devoted to support of the community awareness and emergency response program.

- A special community awareness section of the CAER workbook was written by a staff/member team to round out instruction materials.
- Over 6,000 copies of the CAER workbook have been distributed.
- Two hundred sets of a communication package including video tape, brochures and a slide presentation have been sold.

- September 17 an open communications committee meeting will focus on the communications role in community awareness. Presentations will be made by small, medium, and large companies.

- The Communications Committee has recruited a pool of communication consultants from member companies who will offer assistance to members without communications staff.

- A CAER newsletter to exchange information about how companies are implementing the program is being distributed.

- A special regional communications grant has been made to the New Jersey Chemical Industry Council to develop a model community awareness program.

III. DEPARTMENTAL PROGRAM NOTES

A. Office of the President

1. International Affair-

Training in Developing Countries. The World Environment Center (WEC), under financial support from the U.S. Agency for International Development (AID), has recently completed the first of a number of country visits aimed at improving the health, environment, and safety of people in industrial facilities. The unit which WEC sent to Tunisia included a representative from The Dow Chemical Company and one from Tenneco, Inc. The team submitted a list of corrective actions which would greatly improve the environmental safety and health standards of the plants they visited. A second group, which will include a representative from Occidental Chemical Corporation, is scheduled to go to India later in the month. That will be followed by visits to Jordan and other developing middle eastern nations that have requested assistance.

Additionally, AID has indicated willingness to pay for translation of the CAER Handbook into Arabic and French. WEC people and AID officials are extremely complimentary about the CAER Handbook and are anxious to begin the translation.

2. Association Liaison

The Council of Chemical Associations met on July 17 and discussed Superfund, right-to-know, CAER, toxic air, state legislative initiatives and other issues. The next meeting is scheduled for September 18.

3. Member Services

Plans are actively underway for the Fifth Annual Meeting of State Chemical Organizations. The meeting will be held October 22-24 at the o FEMA is discussing mandatory emergency response preparedness programs for areas surrounding chemical plants.

o EPA, OSHA, and FEMA are discussing the need for national strategies and mandatory standards to manage hazardous substances -- too often they allude to programs that parallel those regulating the nuclear industry.

Press, Agency, Professional Association, and Congressional spokespersons are casting a dangerous illusion that our 200 year old chemical industry is decaying and that it is just beginning to spring leaks. This illusion strikes at the heart of our industry's image as a progressive, high technology, modern industry leading the way into the 21st century.

D. Office of General Counsel

Conference on Insurance and the Chemical Industry. On August 28, 1985, a conference was held for CMA members on INSURANCE AND THE CHEMICAL INDUSTRY: PROBLEMS AND PROSPECTS. Organized by the Office of General Counsel, the conference was held to explore problems of insurance unavailability and possible solutions.

Among the topics discussed included: the availability of insurance today; developments in the liability arena; congressional and EPA perspectives on insurance issues; and customized solutions, pools, captives and other arrangements.

E. Communications

CMA Annual Report. The 1984-1985 report has been completed and is in distribution. As has been practice for the past two years the report presents a retrospective and prospective view of major industry issues.

Communications Support for State Legislative and Regulatory Activity

o A new manual on linking advocacy communication techniques to state legislative activity has been prepared and distributed to each CIC.

o An $8,000 seed grant has been made to the California CIC to carry out a project targeted at thought leaders in Contra Costa County.

EXHIBIT H

Report of the
International Affairs Group
to the Board of Directors
September 10, 1985

By

Thomas W. Mooney, Vice Chairman

EXECUTIVE SUMMARY

The last fiscal year brought a series of remarkable achievements for the IAG. In addition to the September 1984 meetings with the Japan Chemical Industry Association in Tokyo and the Australian Chemical Industry Council in Canberra, Australia, the IAG met formally for the first time with members of the Canadian Chemical Producers Association in Toronto in May 1985. During this same time period, discussions were initiated with the European Council of Chemical Manufacturers' Federations (CEFIC) to establish an international working party of experts under the auspices of the Safety of Chemicals Committee of CEFIC and the International Affairs Group of CMA/SOCMA, along with the Canadian Chemical Producers Association, to establish scientific criteria for identifying and classifying carcinogens, mutagens and teratogens. The group met first in April 1985 in Brussels and subsequently in Washington in June, to produce harmonized criteria for identifying such chronic hazards. Preliminary presentations of this tripartite agreement in its draft form were given to the Science Advisory Board to EPA and to the Office of Management and Budget. Following ratification by the sponsoring organizations, this document will be presented formally to the respective government agencies. The IAG will continue to work with its European, Canadian, and Japanese counterparts to bring about a better understanding of and scientific consensus on important future health, safety, and environmental issues.

IAG'S Major Accomplishments in 1984-1985

o Joint IAG/JCIA Meeting

On September 24 and 25th the International Affairs Group met with representatives of JCIA's Chemical Safety Control Committee (CSCC) at the latter's Tokyo offices. For IAG this was the second of three such meetings this year with chemical industry trade associations of other countries. These meetings addressed issues arising from th laws and regulations intended to reduce chemical risks to health, safety, and the environment.

IAG and JCIA had earlier exchanged discussion papers on each issue. These included current status and proposed changes in TSCA and in Japan's Chemical Substance Control Law. Chemical inventories, testing of new and existing substances, labeling, protection of confidential information, specific chemical identity of substances, and issues involving the export and import of hazardous substances, particularly as proposed in the OECD Recommendation and UNEP Provisional Notification Scheme, were also topics of exchanges between the two groups.

U.S.-Japan activities to implement OECD recommendations on Good Laboratory Practices were discussed. The effect of U.S. right-to-know laws, as these interact with labeling and confidentiality und r OSHA and TSCA, were also topics of discussion.

The meeting achieved the following: agreed to implement OECD's Good Laboratory Practices, identified differences between JCIA and IAG interpretations of draft proposals of "OECD's Guides to Traders and Manufacturers" in the export of hazardous substances. JCIA and IAG agreed to work together to resolve these differences within the framework of OECD's Business and Industry Advisory Council.

o Joint IAG/ACIC Meeting

The IAG met in Canberra, Australia, on September 27 and 28, 1984, with members of the Australian Chemical Industry Council (ACIC). Discussions were focused on Australia's proposed law to implement the "Notification and Assessment Scheme for New Chemicals." Representatives from two Australian State Governments, Victoria and New South Wales, also participated in the meetings. The Australian Government has announced that mandatory nationwide notification and assessment for chemicals new to Australia would be implemented by July 1985. The scheme is patterned on the EEC Sixth Amendm nt. The prospective manufacturer/importer of a new chemical is required t provide information similar to that specified for Premarket Notifications in EEC. During the course of the meeting the IAG delegation mentioned many concerns and problems with the proposed Australian legislation. As a direct result of these discussi ns, the Australian Government has agreed to seriously review and modify their legislative initiative, and the implementation of that legislation has been significantly delayed.

The ACIC and IAG agreed on the need to protect confidentiality of trade secret chemical identities of substances, and the group agreed to review implementation of the Principles of Good Laboratory Practice, worker and community right-to-know laws, and the exchange of information on the export of hazardous substances.

o Joint IAG/CCPA Meeting

On 29 and 30 May 1985, the IAG met with the Canadian Chemical Producers Association in Toronto, Canada. The format for the meeting was that of a regularly scheduled CCPA meeting, where IAG invited guests were asked to comment, where appropriate. The discussion lasted for two days and included:

a. a complete presentation of the Canadian Workplace Hazardous Materials Information System (WHMIS) policy framework and review of the status of the United States Occupational Safety & Health Administration (OSHA) proposal,

b. discussion of risk assessment and risk management legislation,

c. discussions of testing and notification as they appear in the Environmental Containments Act (in Canada);

d. export notification from both the United States and Canadian perspectives,

e. regulation of substances in canada,

f. discussion of the CMA-developed CAER and NCRIC Programs (how the CAER and NCRIC programs complement those now being implemented in Canada), and

g. discussion of the Tripartite (IAG/CEFIC/CCPA) Working Group on Chronic Hazards.

It was agreed that IAG and its members would review the WHMIS ingredient disclosure list, exchange key AIHC documents on risk assessment, keep CCPA advised on reauthorization of the U.S. Toxic Substances Control Act, and assist in obtaining full reciprocity in the U. S. for Canadian TDG Regulations.

o Joint IAG/CEFIC/CCPA Working Group on Chronic Hazards

As a result of extensive discussions between the three organizations, it was agreed that a group of environmental and health and safety experts would convene in April 1985 in Brussels to lay out a set of common definitions of chronic hazards. That effort produced remarkably good agreement and the first of international stature on the environmental health or safety issues involved. A subsequent meeting in June in Washington resolved technical differences within the group and, by the end of August 1985, the Joint IAG/CEFIC/CCPA Tripartite Agreement should be ratified by the sponsoring organizations and be ready for publication.

Copies of this document will be sent to Appropriate U.S. governmental agencies and to the various governmental agencies within the European Economic Community, as well as to the Canadian agencies responsible for health, safety and the environment.

o IAG prepared and delivered position papers on information exchange for export of hazardous substances through the U. S. Business and Industry Advisory Committee and the U. S. State Department to the Organization for Economic Cooperation and Development Chemicals Group and its parent Environment Committee.

IAG has supported the purposes of the OECD Chemicals Programm , that is, to harmonize chemicals regulation in member countries in an effort to avoid trade barriers that may be caused by inconsistent laws and regulations. We have, however, opposed efforts by some officials in the OECD Secretariat and member governments to turn the Programme into an international regulatory system. We have also urged implementation of the past Chemicals Programme activity into national regulatory schemes prior to initiation of any new areas of involvement from OECD.

Most OECD countries are just beginning to develop their toxic substances control legislation, and time is needed for them to implement their own systems and to assimilate existing OECD guidelines before any additional substantive OECD activities are undertaken. IAG believ s that an international agreement or treaty on chemicals control is premature. IAG is increasingly looked to by the U.S. Government and by the OECD as the key voice representing U.S. industry.

On a continuing basis, IAG closely follows the agenda of OECD's Chemicals Group, Management Committee, and their various Expert Groups, consulting as necessary with the official U.S. Delegation to register U.S. industry's views on key technical issues

o The IAG has participated in an increased dialogue with various lem nts of the United Nations. Specifically, comments were submitted on UNEP's Provisional Notification Guidelines on the Export of Hazardous Substances. The State Department has accepted our views that listing banned, severely restricted, withdrawn or unapproved (in the case of pharmaceuticals) chemicals is an inappropriate mechanism and that thes terms are faulty without further definition. An ad hoc task group of IAG has extensively researched pro's and con's of participation in a jointly sponsored (UNEP/UNCTC) conference, proposed for late 1985, on the health and safety aspects of transnational corporations chemical operations in developing countries. The task group has met with representatives of the State Department, CEFIC, and people from the corporate community to discuss whether IAG should participate (as UNCTC has requested), or to join a "umbrella organization" such as the International Chamber of Commerce and attend under their NGO status, or to withdraw from participation entirely. It is expected that this question will be resolved within the next thirty days.

Irrespective of the outcome, however, the IAG will continue to improve its liaison with organizations of the United Nations and with those elements in the private sector dealing on a more direct basis with th UN groups.

CMA
BD-9/10/85

EXHIBIT I

U.S./CANADA BILATERAL TRADE AGREEMENT

Proposed CMA Position

Background

Several years ago, the Canadian government expressed interest in a form of bilateral free trade with the U.S. That proposal contained a number of industrial sectors including petrochemicals. The CMA International Trade Committee held several meetings with the Canadian Chemical Producers Association (CCPA) Trade Committee during 1983 and 1984. Following those meetings, concern was expressed that a product-by-product or sectoral approach would probably not meet with acceptance by the U.S. chemical industry. The Trudeau Canadian government did not make a formal request to the United States to enter into negotiations.

The Mulroney Canadian government is also interested in such a trade negotiation with the United States. However, the Canadians apparently have come to believe that only an across-the-board approach, not a sectoral approach, will receive consideration by the U.S. government. In anticipation of a Canadian overture for a bilateral negotiation, the CMA International Trade Committee has prepared the attached proposed position statement.

Recommendation

That the following specific conditions be met in order for any bilateral trade agreement to exist between the two countries. These conditions would include:

- balanced benefits to both countries;
- Canadian government policies which do not unduly restrict investment or feedstock availability and price;
- tariff reductions across the board rather than sectoral basis;
- adequate dispute settlement procedures; and,
- a requirement for 70 percent Canadian value added for all eligible goods.

ACTION REQUIRED: Approval of recommended position

EC 9/9/85
BD 9/10/85

Approved, International
Trade Committee
5/30/85

CMA Statement of Key Principles Concerning a Bilateral Free Trade Agreement Between the United States and Canada

1. Any bilateral free trade agreement must confer balanced benefits to both the United States and Canada.

2. Negotiations on the elimination of preferential Canadian chemical feedstock and energy policies and foreign investment restrictions must be an integral part of any U.S. tariff negotiations with Canada. In this regard, the U.S. Government must not commit itself to any tariff cuts prior to obtaining Canadian agreement to eliminate these non-tariff trade and investment barriers.

3. Other non-tariff trade barriers, such as inadequate protection of intellectual property rights, should also be considered in any free trade negotiations between the United States and Canada.

4. The tariff elimination components of a bilateral free trade agreement between the United States and Canada should include all chemicals and related products and should not be restricted to chemical industry subsectors or specific products.

5. The U.S. government should consult with the U.S. chemical industry and provide adequate opportunities for timely industry input before and during U.S. negotiations with Canada.

6. Any free trade agreement should require that all products eligible for duty-free entry into the United States under the agreement must have a Canadian value added level of 70 percent or greater, with an unlimited allowance permitted for the value of U.S. components.

7. A bilateral free trade agreement with Canada should provide for the mandatory reimposition of duties in the event of non-fulfillment of the conditions of the agreement.

8. Any bilateral free trade agreement with Canada should contain an adequate and binding dispute settlement mechanism.

9. Free trade negotiations with Canada should also address other issues, such as how temporary trade distortions caused by currency fluctuations and injury to a domestic industry by duty-free entry of products will be handled, to avoid impairment of the benefits under any bilateral free trade agreement.

CHEMICAL MANUFACTURERS ASSOCIATION:
COMMENTS ON A BILATERAL FREE
TRADE AGREEMENT BETWEEN THE UNITED STATES
AND CANADA

EXECUTIVE SUMMARY

The following comments of the Chemical Manufacturers Association (CMA) on a possible bilateral free trade agreement between the United States and Canada present issues which CMA believes must be addressed by the United States prior to entering into any such agreement.

First, CMA believes that any bilateral free trade agreement must confer balanced benefits to both the United States and Canada. One country must not benefit to the detriment of the other.

Second, CMA believes that the long-term objective of such a free trade agreement is to achieve an open environment for international trade and investment unencumbered by barriers and governmental intervention in the marketplace. In this regard, we believe that any free trade agreement must address non-tariff barriers to trade. For example, we believe that negotiations on the elimination of preferential Canadian chemical feedstock and energy policies and foreign investment restrictions must be an integral part of any U.S. free trade negotiations with Canada.

Moreover, we believe that other non-tariff trade barriers, such as inadequate protection of intellectual property rights, should also be considered in any free trade negotiations between the two countries.

CMA is aware that the Administration is evaluating the merits of the possible establishment of a subsectoral free trade arrangement with Canada on petrochemicals. Moreover, the Canadian chemical industry has proposed that any such negotiations address only certain products in the petrochemical subsector. CMA is opposed to any chemical industry product or subsectoral approach. Instead, we believe that any tariff negotiations with Canada, coupled as indicated above with negotiations on non-tariff barriers, must address all chemicals and related products.

To ensure the effectiveness of the tariff elimination component of a free trade agreement with Canada, any such agreement should require that all products eligible for duty-free entry into the United States under the agreement have a Canadian value added level of at least 70 percent of the value of the product. The value of U.S. origin raw materials or other components incorporated into a Canadian product in Canada should be considered Canadian value added for purposes of the 70 percent test.

Moreover, CMA believes that a free trade agreement with Canada should: provide for the reimposition of duties in the event of non-fulfillment of agreement conditions; address oth r issues, such as how temporary trade distortions caused by currency fluctuations and injury to a domestic industry by duty-free entry of products will be handled; and contain an adequate and binding dispute settlement mechanism (the dispute settlement provisions contained in the U.S./Israeli agreement are not adequate in our opinion).

Finally, CMA believes that it is absolutely essential that the U.S. Administration provide adequate and timely opportunities for chemical industry input before undertaking any free trade negotiations with Canada, as well as during any negotiation process. CMA urges the utilization of the Industry Sector Advisory Committee (ISAC) for this process. However, we believe that other industry groups, such as our own Association, must also be included in this consultative process.

CMA believes that, if the issues discussed in our comments are considered by the United States Government before negotiations with Canada begin and if they are adequately addressed in any free trade agreement with Canada, then trade benefits mutually advantageous to both countries are achievable through such an agreement.

CHEMICAL MANUFACTURERS ASSOCIATION: COMMENTS ON A BILATERAL FREE TRADE AGREEMENT BETWEEEN THE UNITED STATES AND CANADA

I. INTRODUCTION

The United States and Canadian Governments are considering the desirability of a bilateral free trade agreement between the two countries. As a part of this analysis, the United States International Trade Commission (USITC) and the inter-agency Trade Policy Staff Committee (TPSC) are currently investigating the probable economic effect of providing duty-free treatment for selected imports from Canada. The results of these investigations are intended to assist the President in assessing the impact of establishing bilateral free trade in selected industry subsectors, including certain petrochemicals.

The Chemical Manufacturers Association wishes to make the following comments on a bilateral free trade agreement between the United States and Canada. The Chemical Manufacturers Association (CMA) is a nonprofit trade association whose member companies represent more than 90 percent of the productive capacity of basic industrial chemicals in the United States.

The comments contained in this paper are not directed to either the USITC or the TPSC investigation. Rather, they present issues which CMA believes must be addressed by the U.S. Government <u>prior</u> <u>to</u> entering into any bilateral free trade agreement with Canada.

II. GENERAL COMMENTS

The United States and Canada are each other's largest trading partner. The total trade between the two countries in 1984 equalled $113 billion. Chemical trade represents a substantial portion of this figure. In 1984, Canadian chemical exports to the United States were about $3.13 billion, and United States chemical exports to Canada totalled $2.75 billion. This reflects a 1984 chemical trade balance of about $379 million in favor of Canada. [1/]

The chemical industry of each country has substantial direct investment in the other country. In many cases, Canadian subsidiaries of U.S. companies produce intermediate or finished products, not only for the Canadian market, but also for the United States and third country markets.

In addition, the strengths of the U.S. and Canadian chemical industries complement each other. Canada has a rich base in natural resources, especially in hydrocarbons, with installed capacity for large volumes of certain basic chemicals and intermediates. The United States has a highly developed basic chemical and downstream chemical processing industry, as well as capacity to produce a variety of commodity chemicals. The United

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[1/] U.S. Dep't. of Commerce, Bureau of Census: Highlights of U.S. Export and Import Trade (FT990: December, 1984).

States also has the world's largest market for products of the chemical industry.

III. SPECIFIC COMMENTS

A. Any Bilateral Free Trade Agreement Must Confer Balanced Benefits to Both the United States and Canada.

CMA believes that the benefits of any bilateral agreement must be even-handed; one country must not benefit to the detriment of the other. The statutory authority for such agreements supports this contention. Section 102 of the Trade Act of 1974, as amended by Section 401 of the Trade and Tariff Act of 1984, [2/] indicates that such negotiations should be conducted on the basis of mutuality. Moreover, the legislative history of the 1984 Act states the intention of Congress that bilateral agreements of the sort proposed with Canada must be "reciprocal and mutually advantageous." [3/]

[2/] Section 102(b)(4) of the Trade Act of 1974 (19 U.S.C. §2112), as amended by Section 401(a)(2) of the Trade and Tariff Act of 1984, 98 Stat. 3014.

[3/] H.R. Rep. No. 383, 98th Cong., 2d Sess. 18 (1984); H.R. Rep. No. 1092, 98th Cong., 2d Sess. 16 (1984).

B. Any Free Trade Agreement with Canada Must Address Non-Tariff Barriers to Trade.

1. Negotiations on the Elimination of Preferential Canadian Chemical Feedstock and Energy Policies and Foreign Investment Restrictions Must be an Integral Part of Any Free Trade Negotiations with Canada.

CMA believes that the negotiations between the United States and Canada on a bilateral free trade agreement should not be limited to the subject of tariff-cutting. The elimination of trade distortions caused by preferential Canadian chemical feedstock and energy policies and by Canadian foreign investment restrictions must also be adequately addressed in such negotiations. Furthermore, we believe that the U.S. Gov rnment must not commit itself to eliminating any tariffs prior to obtaining Canadian agreement to eliminate the trade distorting effects of these restrictive policies. Ample support for the inclusion of non-tariff barriers in such negotiations is found in the Trade Act of 1974 and the Trade and Tariff Act of 1984. [4/]

[4/] Sections 102(a), 103 and 105 of the Trade Act of 1974 (19 U.S.C. §§ 2112, 2113, and 2115) and Sections 302, *et seq*. and 401 of the Trade and Tariff Act of 1984 (19 U.S.C. §§ 2102, 2112(b), 2114 and 2411 (a)).

a. Canadian Raw Material and Energy Policies

CMA believes that the internal energy policies implemented under the Canadian National Energy Policy (CNEP) have had an adverse effect on market mechanisms in Canada and on Canadian trade with the United States in energy-related products, such as chemicals. We understand that the CNEP is under review by the Canadian government and is likely to be changed. In any case, as part of a bilateral free trade agreement, we urge that the United States Government ensure that present and future Canadian governments' feedstock supply, price, and access policies do not serve as a barrier to otherwise fair competition.

This is necessary to avoid the creation, or perpetuation, of an artificial advantage for the producers of one country over those of the other. Such an assurance is particularly important to industries, such as the petrochemical industry, for which feedstock pricing and availability are critical because the cost of feedstocks represents the largest element of cost for many petrochemical products. If the trade distorting effects of the Canadian governments' policies with respect to the supply and price of, and access to, petrochemical feedstocks are not neutralized, then those Canadian policies will largely determine the conditions of competition in international trade in petrochemicals between the United States and Canada, undermining the workings of an open market system.

b. Canadian Investment Policy

The United States Government must address differences in investment policy between the United States and Canada to ensure that U.S. companies wishing to invest in the Canadian chemical industry are not subject to different or more stringent requirements than are Canadian investors in Canada.

In 1983, a General Agreement on Tariffs and Trade (GATT) panel found the Canadian Foreign Investment Review Act (FIRA) to be in violation of GATT Article III because FIRA made approval to invest in Canada contingent upon a foreign investor's acceptance of often onerous performance requirements to which domestic Canadian investors were not subject. [5/]

We understand that the Canadian Government has begun to administer FIRA in a less restrictive manner and that the Canadian Parliament has passed the "Investment Canada Act" as FIRA's replacement. [6/] While this new legislation is supposed to liberalize the requirements imposed on foreign investors, s v ral restrictions will remain, especially on foreign acquisitions of existing Canadian companies. It remains to be seen how the new Act will be implemented.

[5/] General Agreement on Tariffs and Trade, Report of the Panel, Canada-Administration of the Foreign Investment Review Act, L/5504 (July 25, 1983).

[6/] Introduced in the House of Commons on December 7, 1984. H.C. Bill C-15, 33d Parl., 1st Sess. (1984). Became law on July 1, 1985.

In any event, CMA urges the United States Government to seek the elimination of discriminatory Canadian investment restrictions, other than those dealing with national security, prior to finalizing a tariff-cutting agreement with Canada.

2. Other Non-Tariff Trade Barriers, Such as Inadequate Protection of Intellectual Property Rights, Should Also be Considered in Any Free Trade Negotiations Between the United States and Canada.

There is growing recognition in the United States and abroad that the effective protection of intellectual property rights is essential to increased innovation and productivity and is a vital part of international trade decisions. Provisions aimed at encouraging such protection in other countries are contained in the Trade and Tariff Act of 1984, 7/ the topic is being included in numerous bilateral trade and investment negotiations, and efforts are underway by some industry groups to have intellectual property rights included in a new round of multilateral trade negotiations.

In this context, CMA urges the United States Government to address the issue of protection of intellectual property rights as part of any free trade negotiations with Canada. Canada has traditionally recognized the importance of providing such

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7/ *See, e.g.*, Sections 303, 304, 503 and 505 of the Trade and Tariff Act of 1984; 98 Stat. 3001, 3005, 3019 and 3021.

protection. However, some problem areas remain, for example, in the pharmaceutical field. We believe that a free trade agreement with Canada should include a resolution of these issues, as well as provisions eliminating any other non-tariff trade barriers that may exist.

C. The Tariff Elimination Components of a Free Trade Agreement with Canada Must be Effective.

1. The Tariff Elimination Components of A Bilateral Free Trade Agreement Between the United States and Canada Should Include All Chemicals and Related Products and Not be Restricted to Chemical Industry Subsectors or Specific Products.

A key issue in the U.S.-Canada negotiations is whether import duties or tariffs will be eliminated "across the board" or only on specific industry sectors, subsectors, or products. CMA is opposed to any chemical industry product or subs ctoral approach. Instead, we believe that tariff negotiations with Canada must address all chemicals and related products. We believe such broader negotiations offer greater potential for mutual trade benefits.

2. Any Free Trade Agreement with Canada Should Require That All Products Eligible for Duty-Free Entry Into the United States Under the Agreement Must Have a Canadian Value Added Level - Including the Value of U.S. Origin Components- of at Least 70 Percent of the Value of the Product.

A minimum level of "Canadian value added" must be a condition for duty-free entry into the United States under a bilateral free trade agreement with Canada. This criterion would be fully consistent with the goal of enhanced U.S./Canadian trade and would help to prevent potential abuses of a special trade relationship through transshipment practices. The value added threshold must be high enough to prevent products of third countries being passed through Canada to the United States after only formulation or minor finishing operations have been performed in Canada.

CMA urges that the minimum domestic Canadian value added b set at 70 percent of the appraised value of the product at the time of entry, rather than the 35 percent required under the Generalized System of Preferences, the Caribbean Basin Economic Recovery Act, and the proposed bilateral free trade agreement with Israel. A higher percentage is necessary in an agreement with Canada because Canada is not a developing country and should not be given the liberal domestic value added requirements that have been granted as a concession to such countries. In addition, CMA recommends that the value of U.S. origin raw materials or other components incorporated into a Canadian product in Canada be considered to be Canadian value added for purposes of the 70 percent test to promote bilateral trade.

3. <u>A Free Trade Agreement with Canada Should Provide for the Mandatory Reimposition of Duties in the Event of Non-Fulfillment of the Conditions of the Agreement</u>.

Any U.S./Canada bilateral free trade agreement should include a "snap-back" provision under which United States import duties eliminated under the agreement automatically return to column 1 rates if the conditions of the free trade agreement are no longer fulfilled. For example, if investment restrictions were reimposed by Canada or if Canada imposed a new non-tariff barrier to U.S. exports, then the duties on imports from Canada should snap-back.

D. <u>Free Trade Negotiations with Canada Should Also Address Other Issues, Such as How Temporary Trade Distortions Caused by Currency Fluctuations and Injury to a Domestic Industry by Duty-Free Entry of Products Will be Handled, to Avoid Impairment of the Benefits Under Any Bilateral Free Trade Agreement</u>.

Two difficult subjects that CMA believes must also b addressed in the context of bilateral free trade negotiations with Canada are how to handle temporary trade distortions caused by currency fluctuations and what to do if a domestic industry is injured by the duty-free entry of products under an agreement. Consideration should be given to imposition of a surcharge to correct the temporary trade distortions in the first instance and to imposition of temporary safeguard duties to eliminate the injury in the second. In this regard, CMA assumes the U.S. unfair trade statutes will continue to apply to imports fr m Canada.

E. Any Bilateral Free Trade Agreement with Canada Should Contain an Adequate and Binding Dispute Settlement Mechanism.

CMA believes that any bilateral free trade agreement with Canada should contain procedures for the settlement of disputes between Canada and the United States that arise under the agreement. We do not believe that the procedures contained in the proposed U.S./Israeli agreement are adequate for this purpose.

Instead, we recommend that dispute settlement procedures in any U.S./Canada agreement: provide for a rapid and effectiv settlement of disputes; contain mechanisms for a binding decision in the event of a stalemate; and, most importantly, provide for significant industry input in the dispute settlement process.

F. The U.S. Government Should Consult with the U.S. Chemical Industry and Provide Adequate Opportunities for Timely Industry Input Before and During U.S. Negotiations With Canada.

As mandated by the Trade Act of 1974, and reaffirmed in th Trade Agreements Act of 1979, [8/] a structure of formal industry sector advisory committees (ISACs) representing U.S. companies from all segments of U.S. business is in place. There is a

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[8/] Section 135 of the Trade Act of 1974 (19 U.S.C. § 2155), as amended by Section 1103 of the Trade Agreements Act of 1979, 93 Stat. 308-10.

widespread perception that the ISACs were not advised or consulted adequately in the course of developing the U.S./Israel Free Trade Agreement nor in earlier and subsequent U.S. Government discussions with Mexico which led to the signing of the U.S./Mexican Subsidies Agreement. CMA strongly urges the U.S. Government to avail itself fully of this mechanism for eliciting private sector input on a timely basis if any consultations on a U.S./Canada bilateral agreement proceed.

Moreover, we believe that appropriate mechanisms must exist to allow for additional industry input, such as from CMA and other trade associations, into any such negotiations so that all significant considerations can be addressed prior to any commitments having been made.

IV. CONCLUSION

CMA believes that, if the issues raised in this paper are considered by the United States Government before negotiations with Canada begin and are adequately addressed in any free trade agreement with Canada, then trade benefits mutually advantageous to both countries are achievable through such an agreement.

CMA
EC-9/9/85
BD-9/10/85

REVIEW OF CMA GROUNDWATER PROGRAM
AND
PROPOSED POLICY ON GROUNDWATER PROTECTION

This presentation is intended to review the development of CMA's groundwater program and to request approval of one new element of CMA's evolving groundwater policy.

Background

Groundwater is an important natural resource. It has many and varied uses including drinking water supplies, crop irrigation, livestock watering and industrial water supplies. Approximately 50% of all Americans obtain all or part of their drinking water from groundwater sources.

Recently groundwater issues have come to the forefront. Many groundwater issues are or soon will be before Congress, EPA, state legislatures and regulatory agencies, and on the agendas of environmental groups, industry groups and consensus organizations:

- Senator Durenberger is currently holding oversight hearings on groundwater. Senator Durenberger will introduce groundwater legislation in September 1985 which may significantly affect chemical industry operations (siting, transportation, product use, waste disposal).
- In 1985, 135 groundwater related bills were introduced in 25 states. Most bills contain provisions which significantly impact chemical industry operations. An even greater level of state activity is expected in 1986.
- Some states, such as Wisconsin and Florida have enacted detailed legislation for groundwater management programs.
- EPA recently developed and is moving to implement a groundwater protection strategy.
- Consensus groups, such as the Conservation Foundation and the National Water Alliance have formed task groups to address the issues.
- Other trade associations such as NACA, SOCMA and NEDA are developing policy statements.
- Environmental groups such as NRDC, EDF and EPI (Environmental Policy Institute) are addressing the issue in various forums.

CMA Objective

To achieve a beneficial balance between chemical industry operations and protection of human health and aquatic resources.

Elements and Status of CMA Groundwater Policy

CMA is developing a comprehensive groundwater management policy which addresses federal and state legislative and regulatory responsibilities. CMA's position on the federal/state split continues to be that:

- o states should have responsibility for defining, implementing and enforcing groundwater management programs.

- o the federal government should provide guidance, technical transfer and funds to aid states in their efforts.

CMA's groundwater management policy will address all critical aspects of the groundwater issue. These aspects include groundwater standards, monitoring, use classification, groundwater protection and product handling. CMA actions t date are summarized in Table I.

Proposed Groundwater Protection Policy

The proposed groundwater protection policy is before the Board of Directors for approval. This policy states that groundwater is an important natural resource that must be protected.

States have the leadership role in protecting and managing this resource, and should act on these responsibilities by developing and implementing groundwater management programs. Groundwater quality protection programs are an integral part of broader groundwater management programs.

As states develop their protection programs, CMA recommends that states consider instituting requirements for appropriate facility design and operating practices developed by each facility that will minimize the release of pollutants (groundwater protection practices).

Also, CMA recognizes that states may choose to institute the f llowing practices as part of a groundwater management program: a) a groundwater withdrawal program to protect groundwater quality, b) land use planning in areas where the potential for adverse impacts from groundwater contamination from future activities are significant; c) a permit program for point source discharges to groundwater where such discharges are not already controlled under existing regulations.

Requested Action

Groundwater program review for information only. Specific approval is requested for one element of the groundwater program: Policy on Protecti n of Groundwater Quality (full text attached).

CMA
BD-9/10/85

TABLE I

CMA GROUNDWATER ACTIVITIES

Element	Description of CMA Position and Status
Groundwater Standards	States should maintain groundwater at existing quality or at a quality necessary to maintain use, provided that standards are applied where groundwater is withdrawn for use. The federal government should develop use-based criteria s states can set reasonable standards. This policy was approved by the Board of Directors in June 1985.
Groundwater Monitoring	This position addresses when, where and how to monitor groundwater to insure that desired groundwater quality is not impaired. The position calls for technically sound methods for monitoring and requirements for technical competence of those performing the monitoring. This policy was approved by the Board of Directors in June 1985.
Alternative Supplies of Drinking Water	This policy describes the process a governmental unit should use to determine when alternative drinking water supplies should be provided. This is an elaboration of current Board approved Superfund policy.
Sole Source Aquifer	This policy supports restrictions on activities over sole source aquifers to prevent groundwater contamination since the aquifer is the sole source of drinking water. The current policy is an elaboration of Board approved policy (1/85).
Use Classification	Our current policy states that groundwater should be maintained at a quality necessary to support current and future uses. The position was approved by the Board of Directors in 1982. Re-evaluation and appropriate modification f the policy is underway.
Product Handling	This policy should address product handling and distribution procedures to prevent contamination of groundwater. Plans for policy development are underway.

PROPOSED CMA POSITION
PROTECTION OF GROUNDWATER QUALITY

Introduction

Groundwater is an important natural resource that must be protected. CMA advocates protection of groundwater quality, through management of the resource at existing quality or at a quality necessary to maintain designated uses. Groundwater quality should be determined where water is withdrawn for use.

This document provides concepts for state groundwater quality protection programs. Protection programs are just one aspect of comprehensive groundwater management programs. The concepts addressed in this paper apply to a wide cross-section of private and public activities (industrial, domestic, municipal, agricultural, etc.) that may affect groundwater.

For industrial activities, these recommendations cover manufacturing and ancillary facilities other than waste disposal operations which have the potential to contaminate groundwater. Waste disposal operations are already covered by existing state and federal statutes, regulations and programs.

Decisions about managing groundwater resources have historically and appropriately been the responsibility of state and local governments. In view of the localized nature of groundwater use and the land use considerations tied so closely to groundwater management, states continue to be best suited to develop and implement groundwater management programs. Some states have designed or are in the process of designing programs tailored to meet their specific needs and considerations. CMA encourages all states to develop such programs.

In developing groundwater quality protection programs, CMA believes that states should consider instituting performance requirements for each facility that will minimize the release of pollutants (groundwater protection practices or GPP's);

Also, CMA realizes that states may choose to institute one or more of the following practices as part of the groundwater management program: a) a groundwater withdrawal program to protect groundwater quality; b) land use planning in areas where the potential for adverse impacts from groundwater contamination from future activities are significant; and c) a permit program for point source discharges to groundwater where such discharges are not already controlled under existing regulations.

Groundwater Protection Practices

The institution of requirements for appropriate facility design and operating practices (GPP's) is an acceptable and appropriate means of protecting groundwater quality and of minimizing the potential for groundwater discharges from all sources. Such practices should be developed by the affected facility, be implemented on a facility-specific basis and include the concept of hydrogeologic vulnerability. Surveillance programs should be instituted, where necessary, to demonstrate the effectiveness of the specific protection practice. In, addition, a GPP should include educational and training programs for those responsible for implementation.

GPP's should address current and planned activities and should be documented. They should also include any necessary plots, plans, drawings or maps. In addition, the GPP plan should be modified whenever changes at a facility materially increase the potential for significant releases of pollutants or where actual releases indicate the plan is inadequate.

Where states opt to include GPP's as part of their groundwater quality protection program, such practices could include an inspection provision and trigger mechanism for more detailed plan review when discharges occur.

The federal government should assist states in developing GPP requirements by providing guidance and technical assistance and by creating the opportunity for information exchange. This would assist states in determining the most effective approaches consistent with their specific needs.

Absent regulatory requirements, groundwater protection practices are still an appropriate and necessary procedure for those whose land surface activities could affect groundwater quality.

Other State Considerations

Improper withdrawal of quantities of water can affect groundwater quality by causing saltwater intrusion, undesirable changes in groundwater flow characteristics, and transport of contaminants. For states where groundwater quantity is a concern, this may not be separable from the quality issue. States may choose to regulate the withdrawal of groundwater as may be appropriate to protect groundwater quality as part of its state groundwater quality protection program. CMA does not see a federal role in state evaluation of water quality impacts of withdrawal programs and statutes.

Under some circumstances, such as in vulnerable hydrogeological areas, state or local governments may choose to implement planning of the use of the land (for future activities) overlying the aquifer or the recharge zone to assure protection of groundwater quality. Land use and soils information should be used in conjunction with aquifer mapping to develop appropriate land use management decisions. Such controls may include zoning restrictions, requirements for septic tank placement, requirements for the siting of new facilities where potential adverse impacts from groundwater contamination are especially significant, restrictions on other activities related to land use that may potentially affect groundwater quality.

The federal government should continue to assist states in the development of aquifer mapping and soils information. Guidance and technical assistance relating land uses, hydrogeology and soils with potential groundwater impacts will also assist state and local government in making land use decisions where necessary. CMA believes the federal government should not involve itself in land use decisions.

Where point source discharges to groundwater are not currently permitted under existing regulations, states may choose to incorporate a permit system under their groundwater quality protection program to regulate discharges to groundwater. Where a permit system is employed, CMA endorses the use of permits with performance-based limits and conditions.

CMA
EC-9/9/85
BD-9/10/85

EXHIBIT K

ENERGY COMMITTEE ANNUAL REPORT

1985 - 1986

PRESENTED

TO

THE BOARD OF DIRECTORS

OF

THE CHEMICAL MANUFACTURERS ASSOCIATION

BY

GARY S. FURMAN

CHAIRMAN

SEPTEMBER 10, 1985

INTRODUCTION

Relative to other CMA issues, energy is not a major concern at this time. Crude oil prices have dropped. Fuel oil prices have remained stable. Natural gas prices have declined. The supply of oil, gas, coal and electricity is not a current problem. Under this type of environment the Energy Committee's charter "to ensure equal access at competitive prices to supplies of feedstocks and energy" moves in the direction of stewardship. The meeting schedule has been reduced and we have worked to establish energy-oriented ad hoc coalitions as a cost effective means of promoting CMA energy positions.

Despite this apparently benign energy environment, issues remain that can impact the chemical industry now and in the future.

- Comprehensive gas legislation is unlikely this year but some form of gas legislation may come up as an amendment.
- The Federal Energy Regulatory Commission (FERC) has become the battleground for key gas issues not requiring legislation, such as transportation, pricing, access to supply, and establishment of an interstate competitive gas market.
- The government's search for additional revenue continues, thus the possibility of new energy taxes.
- Efforts are under way to establish protectionist trade barriers for refined petroleum products.
- Traditional cost-based pricing of electricity is being further challenged before the FERC in the proposed rule making for electricity.
- Increased government energy data collection is likely.

ORGANIZATION AND ISSUES 1985 - 1986

The Energy Committee was reorganized at its June 20-21 planning meeting to address the anticipated energy issues through four task groups, Natural Gas, Energy Taxes, Petroleum and Technical Issues which includes electricity, energy conservation and government reporting.

- Natural Gas Issues

In the fourth quarter of 1984, CMA successfully opposed Congressional legislation to reregulate natural gas. This marked the last serious legislative effort in natural gas, and no comprehensive gas legislation is likely this year. There is, however, always the risk of fragmented natural gas legislation as amendments to other bills. Since deregulation January 1, 1985 of approximately 50% of wellhead gas pricing under the Natural Gas Policy Act, the battleground for gas has shifted to the Federal Energy Regulatory Commission (FERC). Because of the quasi-legal atmosphere and the associated high cost, CMA established procedures for cooperative efforts with other industrial gas consumer groups involving the shared use of outside legal counsel in responding to a broad public inquiry by the Federal En rgy Regulatory Commission on natural gas transmission and pipeline ratemaking. The FERC will decide this matter in the fourth quarter of this year.

Objectives for 1985 - 1986

The CMA will continue to advocate legislation which will bring about a free market and enhanced supply; i.e., deregulation of wellhead ceiling prices and removal of all market restraints. The major effort, however, will b directed to FERC regulatory reform to enhance natural gas market competition which by its nature is dependent upon equal access and transportation of natural gas supplies.

Stake: Assurance of natural gas as a source of energy and feedstocks on a competitive price basis. Foster Associates, a natural gas consultant, has conservatively estimated a possible impact of $.25/MMBTU or $750 million per year on CMA member companies from the pricing provisions of the current FERC Docket on regulatory reform of natural gas.

Natural Gas Task Group Projects for 1985 - 1986 include:

- Continue participation in FERC Docket No. RM85-1 on natural gas regulatory reform, and develop CMA responses to subsequent related FERC actions; particular attention will be given to generic or precedent-setting issues such as equal access to all gas (particularly the Outer Continental Shelf [OCS]), pipeline ratemaking, and curtailment priorities that may not be settled in Docket No. RM85-1.

- Continue support for correcting legislative deficiencies under the Natural Gas Policy Act and removal of incremental pricing and prohibitions against the use of natural gas.

- Coordinate with other trade groups and support appropriate coalition actions consistent with CMA's position and goals.

- Energy Tax Issues

The CMA in the first half of 1985 successfully opposed an attempt to implement an oil import fee as part of th federal budget deficit reduction package. The Energy Committee provided focus and technical support to th CMA Tax Policy and Government Relations Committees during this campaign. Congressional leaders, though divided, hav continued to demonstrate a willingness to consider some form of energy taxation as a means to generate revenue during the coming year.

- Objectives for 1985 - 1986

Avoid any new energy-tax-based revenue-generating scheme. If such a tax is imposed, limit the impact on energy and exclude feedstock.

Stake: A tax of $5/bbl. on oil has been estimated by the consultant firm of Data Resources, Inc.(DRI) to decrease chemical production by at least 5% and eliminate 15,000 chemical jobs per year through 1990.

- Energy Tax Group Projects 1985 - 1986 include:

  - Maintain the capability to analyze and develop respons s to various energy tax proposals and studies.

- Coordinate Energy Committee analyses and recommendations with those of CMA Tax Policy and Government Relations Committees.

- Carry the CMA position to appropriate divisions and agencies within the Administration and to the Congress.

- Coordinate with other trade groups, and support appropriate coalition action consistent with CMA's position and goals.

- Petroleum Issues

The CMA position is that market forces, as opposed to price and allocation controls, are the most ffective means to distribute petroleum products in the event of a declared emergency. CMA's position prevailed in the extension of the Strategic Petroleum Reserve (SPR) by Congress. The CMA must be watchful in the coming year that the development of regulations to implement the recent legislation do not nibble away at the fre market concept.

In addition, protection from low-priced for ign imports is being sought by a coalition of mostly small refiners through the imposition of import quotas and/or import fees.

- Objectives for 1985 - 1986

The CMA will resist any effort to modify Department of Energy regulatory policy and procedure away from the current free market concepts.

In addition, the CMA will continue to oppose efforts to create additional protectionist trade barriers which would raise the cost of U. S. petrochemical raw materials above world competitive levels.

Stake: Availability of hydrocarbon raw materials and fuels at competitive prices.

- Petroleum Issues Projects for 1985 - 1986 includ :

- Maintain liaison with the DOE Cabinet Council, Congress, the National Petroleum Council, and related trade associations.

- Develop responses on petroleum issues consistent with the CMA position.

- Support appropriate coalition actions consistent with CMA's position and goals.

Technical Issues

The Federal Energy Regulatory Commission (FERC) is reviewing electrical energy rate setting for the interstate grid in its notice of inquiry, FERC Docket No. 85-17, Phase 1 and 2. The CMA joined with other trade groups to advocate the continuance of cost of service as the basis for rate design. Public hearings and rule making are expected in the fourth quarter of this year.

In addition, the Department of Energy plans to conduct a survey of plant Manufacturing Energy Consumption (MECS). The CMA has already testified and responded to the Energy Information Administration (EIA) proposals for its MECS survey as to burden, sensitivity of information, and its potential misuse. The EIA plans to pursue a pilot survey in late 1985 and a full survey in 1986. It is the intent of the EIA to use this information in responding to energy planning initiatives by branches of the government.

Objectives for 1985 - 1986

The CMA will continue to seek cost of service as the basis for electric rate design.

In addition, the CMA will continue to oppose unnec ssary energy reporting.

Stake: The FERC in Docket 85-17 will consider marginal cost pricing. A 0.1¢ per KWH increase in rates would cost CMA companies $85 million per year (based on 1984 CMA member-company usage of 85 billion kilowatt hours).

In completing the MECS survey, individual plants could incur up to $5,000 in additional reporting costs. The EIA's intent to project energy usage from historic data could give incorrect conclusions when responding to government inquiries such as allocation controls.

Technical Issues Task Group Projects for 1985 - 1986 include:

- Maintain technical liaison with the Electricity Consumers Resource Council (ELCON) and the Electric Power Research Institute (EPRI).

- Evaluate and recommend CMA responses to positions taken by ELCON and EPRI.

  - Work through the Office of Management and Budget to prevent or, if need be, modify the proposed EIA/MECS survey.

  - Promote and support appropriate coalition activity consistent with CMA's position and goals.

The effectiveness of the Energy Committee is the direct result of the support derived from the participating member-company personnel. As Chairman, I appreciate their talent and need th ir dedication to meet the objectives set by the 1985 - 1986 Energy Committee.

EXHIBIT L

REPORT OF THE ENGINEERING ADVISORY COMMITTEE
TO THE CMA BOARD OF DIRECTORS
SEPTEMBER 10, 1985

Good morning, I'm delighted to have this opportunity to talk a little bit about the Engineering Advisory Committee. Your program book contains our formal report and I don't intend to go over that in detail. I will use one or two specific examples from that report to illustrate some points I would like to make and, of course, will do my best to answer any questions it engenders - or questions arising from anything else, for that matter. But I would like to editorialize a bit upon the bare listing of specific activities to leave with you the following ideas.

First, EAC's major role, namely that of dealing with codes and standards, is an advocacy activity. Although it is not the type of advocacy you will read about very often on the front page of the New York Times, and it may or may not be dealing with a government entity, it is nevertheless an advocacy not dissimilar to CMA's main thrusts.

The second important thought is that CMA is uniquely positioned to perform that advocacy. In discussing this point, I'd like to take you through the criteria EAC uses in selecting the tasks where that advocacy is an essential element and lead you to the final thought, namely, that the EAC activities have a high payout for a very modest expenditure.

To those who are not close to standards activities, it might seem that setting standards should be a straightforward technical job, or pure science if you will, about as controversial as 2 + 2 = 4; that the only problem should be to arrive at the best technical solution to which all rational experts would readily subscribe....Oh, would that it were so simple!...

It is perhaps appropriate to spend just a few minutes to refresh our memories on the general framework of the standards system. In the U.S., standards are "voluntary" or "consensus", although in many instances one or more governmental jurisdictions give them the force of law after they are prepared - The National Electric Code is a classic example. As a voluntary standard it represents good engineering practice. But all or parts of it have also been enacted into law by virtually every local, state and federal governmental body involved with the regulation of either construction or personal safety,...from local building codes to OSHA.

The umbrella organization for the voluntary standards system is the American National Standards Institute, known as ANSI for short. <u>ANSI does not write any standards!</u> What it <u>does do</u> is oversee the consensus process. When it determines there has been a reasonable opportunity for all interested parties to voice a contribution and that all valid objections have been either resolved or adjudicated, it will "adopt" the document as an ANSI standard. There are perhaps 30 or 40 thousand of such ANSI Standards. Of these, I would guess that something in the range of 5 to 7 thousand are of direct or indirect interest to the chemical industry. In addition, there are many standards of interest that have never gone through the "ANSI-fication" process. Just to name one, the standard of the Tubular Exchanger Manufacturer's Association or TEMA, which forms the backbone for most of the industry's shell and tube heat exchanger purchases, remains as a manufacturer's agreement, not ANSI document.

How then do standards get into the ANSI system? There are several acceptable procedures. The three most common are: (1) consensus committee, (2) accredited organization or (3) canvass. The consensus committee approach was originally predominant in the ANSI system. In using this path, an adhoc committee is convened, inherently containing consensus, that is, the committee members are carefully selected to represent parties of interest--classically manufacturers, users, technical experts, the public and any special interests. The committee's output is subjected to public comment, and when all negative comments have been resolved, the document is adopted as a standard. Many of our basic process industry engineering standards were developed in this fashion, for example, B31 Process Piping, B16-Flanges, B78 AVS pumps, etc. However, this mode is gradually shifting over to other forms. Major input to the content of such standards must come primarily from participating on the working committee. At the moment, CMA/EAC has only four representatives to such committees, so you can see we have been highly selective. Over the years, member company direct participation has been high in such activities and still forms the backbone of chemical industry input. It is only where member company direct participation cannot accomplish the goals that CMA participation is undertaken. Most often this occurs when only organizations, not individuals or companies are admitted to membership. I'll say more about this subject a little later.

The second procedure recognized by ANSI is that of the accredited organization. Here ANSI certifies that the procedures of the sponsoring organization provide for achieving consensus. Essential elements include public access to the work and requires broad based committee participation, notification requirements, rights of appeal, recordkeeping, and mechanisms to resolve any conflict. Many of our most used standards are developed this way, including the ASME Boiler and Pressure Vessel Code and our favorite example - the National Electric Code which is under the aegis of the National Fire Protection Association (NFPA).

In many aspects it is difficult to perceive the differences between the consensus committee and the accredited organization. Work on the NEC for example is carried out by 20 code-making panels, each of about 25 members plus an equal number of alternates. CMA-EAC participates on the 15 panels which most closely affect the chemical industry (26 total representatives, provided by member companies at member company expense). Code panel composition includes representation from equipment manufacturers, government officials, trade unions, technical societies, the building industry, contractors, consumer advocates, metal industries, insulation manufacturers, other trade associations (NEMA, BTC), vendors, the utility industry and probably others I missed as I skimmed the list. The motivations in such a diverse group obviously differ. There are many opportunities for honest differences of technical opinion, based on the diverse perspectives represented - that after all, is what the consensus system is all about. But it is also possible for pet ideas, or even special interests, to be pressed beyond the point of justification.

Just one example. At the last revision of the NEC, certain interests sought to include a requirement for a motor disconnect switch physically at each motor - offering as justification the safety of persons working on the motor. For most users, this is a matter of indifference. Not so in the process industries where such a local switch would normally have to be explosion proof. It is CMA's position that current tag and lockout procedures on remote disconnect devices provide demonstrably adequate protection and that the proposal creates greater safety hazards than the one it is intended to correct. If the proposal were adopted, we estimated the cost to CMA member companies at 40 M$/yr, based on the then current rate of new construction. Although the amount of new construction varies, we observe that the normal time interval between adoption of a standard for safety applicable only to new construction and the first voice of regulation suggesting retrofit is generally measured in milliseconds. In this case, no estimate of retrofit cost has been made.

One feature of the ANSI system, intended to minimize obsolescence, is that each standard must be revised or reaffirmed within a 3 year interval. The proposal on motor disconnects was turned back at the working committee level for both the 1981 and 1984 versions of the NEC. Current activities are aimed at the 1987 NEC. Once again the proposal has failed sufficient committee support for adoption (tie vote). However, this time appeal has brought it forth for public comment, preparatory to a floor fight at the NFPA convention. The immediate task at hand is to encourage sufficient "public" comment to lay the foundation for a successful floor fight if it is carried that far. The electrical task group is currently organizing such a campaign among member companies and other sympathizers. The NFPA membership assembled in convention is the court of ultimate appeal in so far as technical content of the NEC is concerned. Although members of the NFPA are obviously interested in safety, only a small percentage will be technically versed in matters electrical. I think the parallels with other forms of advocacy are obvious. It is also obvious that a single decision does not make a threat go away. Like bad pennies, these things keep coming back and back!

In addition to the consensus committee and accredited organization modes of adoption, there is a third in frequent use - the canvass method. Here the document is prepared by non-representative means, then submitted for public comment and acceptance. All negatives must be resolved. Typical organizations using this approach include the Underwriters Laboratories, the API, and our old friends, the National Board of Boiler and Pressure Vessel Inspectors. Most of the activities from this source (with the exception of the National Board) are less demanding on the committee, per se, but do impact on CMA staff. Continued participation however, is a necessary prerequisite to our credibility when claiming to represent the chemical manufacturing industry in other matters.

Let me turn away from the ANSI tutorial to the question of how EAC selects its tasks. In a very few cases, only organizations such as CMA representing identifiable blocks of interest will have access. Here obviously, if it is worth doing, CMA should do it. The option is abstention. There are only seven official CMA representatives (plus two alternates) in such categories.

I mentioned before that the major standards effort comes from direct member company participation rather than CMA participation. EAC does attempt to track participation in areas of significant interest and maintain an informal liaison with member company reps. This contributes to a broader coverage and less redundant effort.

Where the tracking indicates a lack of coverage in an area of interest, we try to encourage some member company to fill the gap. It was this gap identification effort that some years ago spotted the fact that there was no user industry participation on the NEC panels. In this case, the task was so complex that a more formal response was judged to be needed and a coordinated effort was mounted which has been highly effective. The bulk of the effort is still provided directly by member company volunteers, but without the coordination available only through CMA, the total industry cost to participate would have been much higher and is unlikely to have been as effective. (19 companies, 1 member each on T.G. 29 reps to NEC) The strength of a well thought out, unified industry position has been amply demonstrated.

Just because a standard is used by the chemical industry does not make it an issue. The EAC does not worry about, nor deal with, the dimensions of bolt threads. We don't care much about flanges so long as the flange we will buy next month will mate with the one we bought last month.

But if there is an effort at significant change, as with the metrication thrust of a few years ago, even flange dimensions can become a key issue. These "crises" come and go.

The EAC relies primarily on its informal liaison with member company representatives as well as its own membership to surface the problem areas which are appropriate for CMA attention. Appropriateness is measured by potential impact on the industry and whether CMA is needed (as opposed to member company rep handling the matter with some support). The net result is the very selective direct involvement by the EAC mentioned before, but a much wider behind-the-scenes impact with both indirect and direct savings out of proportion to the modest budget.

I don't want to leave you with the impression that looking at a few standards represents the sum total of EAC activities. Response to pertinent regulation and legislation is a clear mandate. For example, this year we had expected two OSHA proposals on electric safety topics. We were not disappointed when they didn't issue ..... but they will be along sometime ..... and we'll deal with them then.

One of our concerns growing out of several years of arm wrestling with the National Board of Boiler and Pressure Vessel Inspectors and the relatively satisfactory outcome at the national level is that the arena will shift to the state level. The National Board is, after all, composed entirely of senior state level appointees, and the state capitals are their natural habitat. The EAC has been working with State Affairs Division to attempt to work out an effective early warning system that will be both comprehensive and cost effective. A necessary adjunct will be the necessary backup and support to the local CIC, if and as required.

The EAC has for a number of years, sponsored a Computer User Forum, at two year intervals. These educational sessions in a rapidly moving technology have been extremely well received and are generally self-supporting.

This year, in partial response to the Bhopal incident, the EAC undertook to conduct a similar forum on inspection and maintenance and instructed a newly formed task group to focus on safety through inspection and maintenance procedures and techniques. This group will be holding its third meeting next week, and seems well on the way to creating an informative and constructive session.

For the coming year, we plan:

- to continue the programs already in place, especially those related to the NEC and the two forums planned.

- We need to continue to strive for a comprehensive and cost effective mechanism for dealing with state level regulation of pressure equipment.

- In preparation for the storm of regulatory legislation that in the wake of Bhopal and later incidents now seems inevitable, we need to position the EAC to support the Association most effectively. Some parts of this can and will be undertaken at EAC initiative--for example, an increased interaction with and support to the Safety and Health Committee seems appropriate. But the EAC, by the nature of the subjects it deals with and the normal working assignments of its members, is essentially a reactive, not a proactive group. Therefore, the majority of issues needing attention will necessarily flow from the Association to the EAC for supporting contribution and/or prime responsibility.

Thank you for your time and attention. In this expurgated version of EAC activities I hope I've left you with some key thoughts.

- The whole participation in standards activities is closely akin to more obvious advocacy initiatives

- By careful selection of topics and leveraging, the EAC returns a hefty payout on funds expended.

- The EAC plays a coordinative role not replaceable by another organization or the member companies acting individually

And finally,

- That the EAC can and will be responsive to the Association's needs in the coming times.

If there are any questions, I'll try to answer them . . . . . Thank you.

CMA
BD-9/10/85