

CMA/DOT ENERGY CONSERVATION REPORT

ENERGY EFFICIENCY IMPROVEMENT SUMMARY
CHEMICALS MANUFACTURING

Calendar Year 1982 (1/1/82 - 12/31/82) vs. Base Period 1972

<u>Plants</u>	<u>Current Period Consumption X 10⁹BTU</u>	<u>Calculated Reference Year (1972) Consumption X 10⁹ BTU</u>	<u>% Improvement</u>
Escambia	5,981.1	9,364.7	36.1
Calvert City	2,673.0	3,138.0	14.8
Pasadena	1,380.2	2,123.6	35.0
St. Gabriel	887.2	1,962.3	54.8
Paulsboro	250.3	273.5	8.5
South Brunswick	147.9	286.7	48.4
Middlesex	17.8	39.7	55.2
Cleveland	37.7	78.1	51.8
Elkton	42.1	75.4	54.8
City of Industry	<u>3.2</u>	<u>6.7</u>	<u>51.8</u>
TOTAL	11,420.5	17,348.7	34.2

Energy Savings:

$$17,348.7 \times 10^9 \text{ BTU} - 11,420.5 \times 10^9 \text{ BTU} = \underline{5,928.2 \times 10^9 \text{ BTU}}$$

Energy Efficiency Improvements:

$$\frac{5,928.2 \times 10^9 \text{ BTU}}{17,348.7 \times 10^9 \text{ BTU}} = \underline{34.2\%}$$



FEDERAL LEGISLATIVE BULLETIN

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Editor

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NOVEMBER ELECTIONS: REPUBLICANS HOLD SENATE,
DEMOCRATS GAIN IN HOUSE

Democrats scored a 26 seat net gain in the U.S. House of Representatives as a result of the elections held November 2, 1982. These results are within the range of losses historically experienced by the President's party in midterm elections, although somewhat above normal for the first two years of a new President's term. On the other hand, economic conditions are hardly normal, which accounts for a major portion of Republican losses. A large crop of 81 new House members - 57 Democrats and 25 Republicans - were elected. Twenty-six Republican incumbents and three sitting Democrats were defeated. The new makeup of the House will be 267 Democrats and 166 Republicans (with 2 seats in Georgia to be decided in a special election November 30). Of the 26 seat net Democrat gain, a large majority are said to be liberals. However, a more detailed analysis comparing political philosophies of the winners and the losers is required in order to draw overall conclusions from the elections. The new House members are unlikely to achieve immediate drastic changes in the 98th Congress, but over a longer period of time the Democrats may attain greater cohesiveness than in recent years. Republicans will be pressed to maintain the unity of the last Congress. The President's job will be more difficult, but not impossible, in the 98th Congress. He should still have a floating pool of approximately 235 to 245 House Members who are potential Administration allies on various significant/economic issues. None of the incumbent "Boll Weevil" Democrats were defeated November 2, although as a group their members will represent a smaller proportion of Democrats in the House as a whole.

In the Senate, Republicans maintained control essentially by the same 54-46 margin held in the 97th Congress. Five new Senators were elected. Only one incumbent Republican ("Jack" Schmitt - N.M.) and one incumbent Democrat (Howard Cannon - Nev.) were defeated. No national tide was evident in Senate contests this year. However, despite the numbers in favor of Republicans going into the elections (i.e. of 33 seats up for election, 20 were held by Democrats), they were unable to increase their control of the Senate. This is likely to have adverse effects on their ranks in 1984, when 19 of 33 seats at risk will be Republican, and in 1986 when 22 of 33 seats up for election will be Republican.

Regarding particular races of interest, Congressman Toby Moffett (D-Conn.) will not be returning to the House after losing a race for incumbent Lowell Weicker's (R-Conn.) Senate seat. Governor Jerry Brown lost to Republican Pete Wilson for California's Senate seat. Senators Orrin Hatch (R-Utah) and Malcolm Wallop (R-Wyo.) were re-elected. House Republican Leader Bob Michel (R-Ill.) was re-elected, as were conservative Republicans Judd Gregg (N.H.), John Hiler (Ind.), Frank Wolf (Va.), Stan Parris (Va.), Denny Smith (Ore.), and solid science

supporter Don Ritter (Pa.). Congressmen Joel Deckard (R-Ind.) and Robert Shamansky (D-Ohio) were defeated.

Also, Senators Robert Stafford (R-Vt.), John Chafee (R-R.I.), George Mitchell (D-Me.) and Jim Sasser (D-Tenn.) were re-elected. Science advocate Senator Jack Schmitt (R-N.M.) was defeated. In the House, such liberal Democrats as Phil Burton (Calif.), Robert Edgar (Pa.), and Barney Frank (Mass.) were re-elected. Conservative Republicans John Rousselot (Calif.), Gene Johnston (N.C.), Jim Coyne (Pa.), Gary Lee (N.Y.) and William Wampler (Va.) were defeated. A number of experienced and/or conservative Republicans left the House to run for other office and lost: e.g. Bud Brown (Ohio), Jim Collins (Tex.), David Emery (Me.), Robin Beard (Tenn.), Cleve Benedict (W.Va.), Barry Goldwater, Jr. (Calif.), and Robet Dornan (Calif.).

CONGRESS RETURNS FOR POST ELECTION "LAME DUCK" SESSION

On November 29, 1982, the U.S. Congress is scheduled to return to Washington (at President Reagan's request) for a "lame duck" Special Session expected to last through mid-December. Although the publicly stated justification for the Special Session is to handle appropriations-related matters, a firm agenda has not been established. The Senate and House leadership have indicated that a number of additional issues may be dealt with during this period. A myriad of uncertainties attach to such post-election sessions. The following articles summarize key bills important to the chemical industry which are considered candidates for action during the "lame duck" session.

CLEAN AIR ACT AMENDMENTS

President Reagan, in his October 13 speech on the economy, cited the Clean Air Act as one of "five top economic priorities that must be addressed" by Congress during the Special Session beginning November 29.

In the House, the comprehensive Luken bill (H.R. 5252) is still pending in the Energy and Commerce Committee. It was severely damaged during mark-up and needs to undergo successful reconsideration of the Prevention of Significant Deterioration (PSD) and the hazardous air pollutant (Section 112) amendments.

In August, the Senate Environment and Public Works Committee approved a comprehensive bill which was filed on November 15. The Committee bill (S. 3041) contains very few industry-recommended improvements in the Clean Air Act -- some on requirements for nonattainment including deadline extension, revision of state implementation plans (SIPS), and regulation of CFCs. But the PSD, Section 112 and acid rain amendments are totally unacceptable.

House Energy and Commerce Committee and Senate Environment Committee members have invested much time and effort in the development of amendments to the Clean Air Act during the 97th Congress. Many of these Members will undoubtedly continue to attempt to produce some type of limited bill this year, especially those who support positive changes. Other Members motivated by both philosophical and political considerations, would find it advantageous to wait to consider these controversial questions in the context of the '84 Presidential campaign.

The National Clean Air Coalition has been urging full Senate consideration of the Environment Committee bill, highlighting the acid rain and hazardous air pollutant provisions. Several senators reportedly will seek an alternative bill--long or short, and the Clean Air Working Group (industry coalition) is preparing input for their consideration. Meanwhile, Administration spokesmen continue to call for "a bill" this year.

In order for a bill to merge from the House Energy and Commerce Committee Chairman John Dingell (D-MI) and ranking Minority Member James Broyhill (R-NC) would have to reach agreement with chief opponent Henry Waxman (D-CA). Congressman Broyhill has specified that certain conditions, on Section 112 especially, must be met including a protective rule for floor consideration. But the Waxman camp may be less willing than ever to discuss compromise this year since the election results are perceived as strengthening his hand for next year.

CLEAN WATER ACT

Earlier this year, EPA transmitted a comprehensive package of Clean Water Act amendments to Congress. The House Public Works and Transportation Committee, the Science and Technology Committee and the Senate Environment and Public Works Committee have held hearings on the amendments, and CMA presented testimony at each. The main focus of our testimony demonstrated that the chemical industry has been successful using Best Practicable Technology (BPT) in plant waste water treatment systems to remove toxic waste. Thus, we believe it would be unnecessary and wasteful to require the installation of Best Available Technology (BAT) or additional technology in every plant. The chemical industry has therefore asked Congress to enact a BAT modification procedure, with the burden of proof resting on the plant filing for the modification. Enactment of case-by-case BAT modification is essential to avoid treatment for treatment's sake. The EPA comprehensive package and short bill do not contain a BAT modification provision.

With little time remaining for action on Clean Water Act amendments, EPA is trying to develop consensus around a short bill. It appears that a scaled-down package would include: pretreatment; NPDES permits for 10 years with a 'reopener clause'; issues surrounding partial delegation of NPDES programs

to the states; and, BAT compliance deadline extension to July 1, 1988 (EPA is considering several options to this). Also, a one or two year reauthorization is being discussed for inclusion in the package.

Neither the House nor the Senate subcommittees have scheduled mark-up of Clean Water Act Amendments. In order for a short bill to pass this year, it would appear that all major interests must be in agreement. Our Clean Water Act Task Group continues to work carefully to protect the interests of the industry as the effort goes forward. It is essential that the chemical industry be perceived as working for amendments to the Clean Water Act now.

RCRA AMENDMENTS

Amendments to the Resource Conservation and Recovery Act have been approved by the House by an overwhelming margin. The House bill would prohibit land disposal of certain hazardous wastes but not until an alternative disposal method is available. It also would develop new standards for burning and blending in boilers, bring small generators under RCRA, establish a National Commission on Groundwater, establish a Federal Common Law, and change the dollar ratio that municipalities would have to pay under Superfund to clean up their own sites from 50% to 10%. There are additional changes as well.

Several of the House amendments write into law the regulations which EPA was going to promulgate anyway. This approach has the effect of denying to EPA the regulatory flexibility it might require in the future.

The attention has now shifted to the Senate, where the Senate Environment and Public Works Committee had reported a simple, two year reauthorization bill. Because of the comprehensive changes in the House bill, the Senate Subcommittee on Environmental Pollution has now passed its own comprehensive package. It is very controversial because it would ban the land disposal of certain hazardous wastes even if no alternative method is available. Subcommittee Chairman Senator John Chafee (R-RI) has included additional controversial amendments as well: mandatory inspections of sites, inclusion of small generators under RCRA and creation of a legislated list of substances that could contaminate groundwater.

The House and Senate actions have made the RCRA reauthorization bills extremely controversial. Earlier this year, CMA, along with other interested parties, testified four times in favor of simple reauthorization with no amendments. Since the final RCRA regulations were to be completed shortly, Congress should give them a chance to work. What we now have is a major rewrite of some sections of RCRA and the addition of new and very significant provisions.

The Senate Environment and Public Works Committee should be encouraged to stay with their original thinking and enact a simple reauthorization with no amendments. Since the Senate committee passed its original simple reauthorization bill, S. 2432, no new facts have surfaced to warrant this hasty and massive rewriting of RCRA. The Senate committees will resume mark-up of the RCRA reauthorization in the lame-duck session.

PUBLIC COMPENSATION/CERCLA

In enacting the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) in 1980, Congress established a national program to deal with releases of hazardous substances which may endanger health or the environment. CERCLA's prime focus is its program to respond to inactive hazardous waste disposal sites. (Active sites are regulated under the Resource Conservation and Recovery Act, P.L. 94-580.) Where liable parties are insolvent and/or unidentifiable, the Environmental Protection Agency may perform the response action using money from the \$1.6 billion "Superfund" established under CERCLA. It is funded by a combination of a tax on the sales of certain basic petrochemical substances (87-1/2%) and of general revenues (12-1/2%). Where there are solvent and/or identifiable responsible parties, CERCLA creates liabilities for such response costs.

CERCLA authorizes Superfund expenditures, and creates liabilities, for response costs incurred in remedying a waste site problem. It does not provide funds for claims by those who have allegedly been injured from hazardous waste sites, nor does it create liabilities for such alleged personal injuries.

Congress considered and rejected proposals for such a personal injury program in the process of enacting CERCLA. At that time, Congress was unwilling to disturb the traditional "tort law" system under which persons alleging wrongful injury may seek damages in state courts. Congress did, however, require further study into the question of whether there should be a federal statutory scheme for allowing personal injury damage awards with respect to waste sites. It directed that both scientific and legal analyses be performed in this regard. Basic rules to be addressed through these analyses were: (i) the extent to which people are actually suffering from illnesses and injuries caused by waste site exposures, and (ii) the extent to which the current "tort law" system provided adequate remedies for any such waste-caused illnesses and injuries.

On September 30, the CERCLA Section 301(e) tort law study group released its report. Immediately thereafter, Senator Stafford (R-VT) introduced amendments to CERCLA which would technically be appended to FIFRA amendments now pending in the Senate. These are entitled the "Environmental Poisoning Compensation Act." In essence, Stafford's proposals would (a) extend the liabilities of generators, transporters, and

owner/operators under CERCLA to certain personal injury damages; (b) authorize Superfund resources to pay for personal injury claims; and (c) raise the "cap" on the Superfund to 5 billion and extend the "sunset" date for tax collection to 1990.

CMA's objective will be to prevent enactment of the Stafford amendment in the lame duck session. This is such an important issue that Congress should conduct full hearings to review all aspects and implications of the tort law study group's recommendations.

MARITIME REFORM LEGISLATION

Legislation to revise international shipping regulations governing foreign commerce will be pending during the Special Session. When originally introduced, it provided antitrust immunity and other rights to U.S. flag carriers. Major shippers saw the need for protection for the users of liner services (shippers rights) in view of proposed changes in carrier rights. Joint negotiations between shipper and carrier representatives resulted in amendments incorporated in S. 1593 as reported by the Senate Commerce Committee. The House Merchant Marine and Fisheries, and Judiciary Committees also revised their proposal to make the House bill in many respects better than the Senate version. The House then passed H.R. 4374 September 15.

CMA supports a maritime bill containing appropriate shipper safeguards in this session of Congress. CMA has provided leadership and coordinating functions for the ad hoc shippers coalition in negotiations with the carriers. The coalition is comprised of trade organizations, CMA member and non-member companies, and other interested parties. Substantive principles agreed upon by shipper/carrier representatives are contained in both the House-passed and Senate versions.

Shipper, carrier and Congressional interests are in general agreement. However, individual political feuds between Senators could preclude final passage. Senator Howard Metzenbaum (D-OH) is expected to filibuster and time will be short in the Lame Duck session.

PATENT TERM RESTORATION

The possibility exists for passage of H.R. 6444, the Patent Term Restoration Act, in the post-election session of Congress. This important legislation would extend the term of a patent by up to 7 years for the period during which commercial use of a product or process is delayed because of government mandated testing and review.

The principal obstacle to passage of H.R. 6444 is obtaining an appropriate rule from the House Committee on Rules to bring this bill up for a vote on the House floor. It is anticipated that H.R. 6444, which earlier received only 4 votes less than the

two-thirds required for passage of bills considered on suspension of the rules, would then be passed by the House. We are seeking a modified closed rule which would permit consideration of the bill and germane amendments on the House floor.

REGULATORY REFORM LEGISLATION

Some possibility exists for passage of H.R. 746, the omnibus regulatory reform bill, in the post-election session of Congress. The business coalition which supports passage of this legislation has secured House leadership support for a compromise that is significantly closer to the language of S. 1080 which passed the Senate last spring than to H.R. 746 as reported by the House Judiciary Committee. This compromise would be presented to the House by an amendment in the nature of a substitute which would be offered by Congressman Sam M. Hall (D-TX) and Congressman Thomas Kindness (D-Ohio). Industry is seeking a modified closed rule which would permit consideration of H.R. 746 and the Hall-Kindness amendment.