



Federal Legislative Bulletin

MANUFACTURING CHEMISTS ASSOCIATION

RECEIVED

JUN 28 1978

BULLETIN NUMBER 8

J. E. STEVENS

JUNE 23, 1978

TABLE OF CONTENTS

	<u>Page</u>
Industry Finally Testifies on OSHA's Generic Carcinogen Proposal	1
International Trade Negotiations Enter Critical Phase	2
Natural Gas Compromise Moves National Energy Plan One Step Closer to Passage.....	3
Court Grants MCA Request for Injunction.....	5
Tax Reform Bill Stalled	6
Oil Spill Liability and Compensation Act	7
Greater Industrial Energy Conservation Sought by Kennedy	7
Toxic Substances Authorization Bill Defeated	9
Senate and House Hold Investigative Hearings on the Relationship between the Department of Energy and Energy Lobby Groups	9
Product Liability	10
OSHA Inspectors Must Have Warrants	11
LNG Safety and Siting Bill Waits for Floor Action in the House	12
Presidential Commission on Coal Created: Coal Industry Criticized as Discriminatory	12
Coal Slurry Pipeline Developments	13
Lobby Reform Bill Stalled in Senate Committee; House Continues Grassroots Lobbying Investigation.	13
Chemical Industry Ranks High in Anti-Pollution Expenditures for 1977	15
Labor Law Reform Proponents Fail to Halt Debate	15

MCA

GOVERNMENT RELATIONS DEPARTMENT

1825 CONNECTICUT AVENUE, N.W., WASHINGTON D.C. 20009 • (202) 483-6126 • TELEX 89617 (MCA WSH)

AP00025436

INDUSTRY FINALLY TESTIFIES ON
OSHA'S GENERIC CARCINOGEN PROPOSAL

The Occupational Safety and Health Administration began hearings, on May 18, regarding OSHA's proposal on cancer-causing agents in the workplace. The first witness to testify was Grover C. Wrenn, Director of the Health Standards Program at OSHA. Mr. Wrenn asserted that in future rulemaking proceedings the agency's general prevailing philosophy would continue to be that there is no safe level for carcinogens. OSHA, seeking to develop a national standard for protecting workers from exposure to cancer-causing agents in the workplace, has been hearing testimony from government witnesses for the past month.

Other federal agencies, including the EPA, FDA and CPSC are considering patterning their regulation of carcinogens on OSHA's final standard, so the OSHA proposal takes on heightened significance.

The OSHA proposal abandons its substance-by-substance approach to regulating carcinogens in favor of a system of moving against broad categories of carcinogens. OSHA would limit exposure to the lowest feasible level and is considering measures that would effectively ban some substances if substitutes can be found. OSHA's proposal rejects the theory that practical threshold levels exist for suspected carcinogens below which workers can safely be exposed. There would be no distinction drawn between high and low potency carcinogens to establish a degree of control.

Briefly, OSHA has proposed to establish criteria for classifying materials as (1) carcinogens (2) suspect carcinogens (3) all other material or (4) carcinogens not found in the workplace. Rigid regulatory responses would be required in each case. An emergency temporary standard and proposed standard, both specifying lowest feasible exposure, would result from placing a material in the first category. Also in that case, no occupational exposure would be allowed if the Secretary of Labor determines a less hazardous substitute is available for certain uses. For substances in the second category, a standard would be promulgated or revised, if one exists, with an "appropriate" permissible exposure level to protect against acute or chronic effects of exposure. Model standards are provided for each of the above instances. Placement in the last two categories would result primarily in the exchange of information on these substances with other agencies.

The American Industrial Health Council (AIHC) was the first industrial witness to testify since the hearings began. AIHC strongly stated that OSHA's published proposal will have serious economic effects on large businesses and will be particularly devastating to small companies who cannot afford the costs associated with regulatory compliance.

AP00025437

In February AIHC delivered to OSHA modifications to OSHA's proposal in the form of an alternative plan. The alternative was prepared by a committee of scientific, medical, engineering and regulatory experts who studied the OSHA proposal in depth and developed a point-by-point summary of suggested changes. It calls for cooperation between government, industry and labor in developing scientifically valid methods of identifying and controlling cancer-causing substances in the workplace.

The AIHC plan suggests the formation of a scientific classification panel, to be composed of persons selected by the National Academy of Sciences, which would identify carcinogens.

The MCA will testify on June 28. MCA has strongly objected to OSHA's proposal on grounds that OSHA's regulatory approach does not allow for flexibility to reflect different degrees of hazards, lacks sufficient guidelines for acceptability of toxicological data and fails to provide procedural safeguards prior to banning materials. MCA's testimony will stress:

- OSHA's regulation exceeds the limits of the authority delegated to OSHA by the Congress;
- because of insufficient interagency consultation, the proposal creates the likelihood of inconsistent regulation by the government;
- the proposed regulations fail to provide for the comparative evaluation of the risk and benefit involved in taking regulatory action; and
- the proposal requirement of substitution for existing chemicals is an area where OSHA has little expertise and which is more properly a matter for decision by industry.

Along with the need for risk/benefit analysis, the MCA will strongly support efforts of the AIHC. The AIHC extensively studied the OSHA proposal and has concluded that it will regulate work conditions in laboratories, offices, factories, wholesale and retail outlets and, in fact, in any workplace where these substances are used.

INTERNATIONAL TRADE NEGOTIATIONS ENTER CRITICAL PHASE

Ambassador Robert Strauss continues to press for a broad negotiated agreement by July 15. The agreement at that time reportedly may include a general 35 - 40 percent average tariff cut with the specific details and nontariff barrier agreements to be worked out at a later date. The July 15 deadline was arranged, in part, to allow the Administration to make a major announcement regarding trade at the upcoming economic summit in Bonn, Germany. Trade representatives from the European community have privately stated that the United States is making significant concessions on trade issues in order to arrive at an early agreement.

AP00025438

At discussions in Geneva, U. S. Chemical Industry representatives found U. S. negotiators misinformed about the potentially serious consequences of the negotiations on the chemical industry. Every effort was made by Trade Advisor William Sneath and others to fully inform them of the industry's positions.

The White House expressed to a chemical industry delegation its confidence that the outcome of the negotiations will prove favorable to the chemical industry. MCA member company corporate representatives have visited various Members of Congress asking that they urge Ambassador Strauss to accept the reasonable modifications of U. S. positions which industry has suggested. Members of the Office of the Chemical Industry Trade Advisor (OCITA), headed by William Sneath of Union Carbide, met with Ambassador Strauss on June 14 to express, once again, our concern about potential tariff cuts.

The Multilateral Trade Negotiations have moved into their critical negotiating phase in Geneva. OCITA has expressed strong reservations about the stated U. S. objective of achieving an average 40 percent reduction in United States tariffs. This objective, OCITA points out, can only be achieved by higher than 40% cuts on chemicals and plastics.

The chemical industry also believes that the current negotiations are not taking fully into account significant changes now occurring which, by the mid 1980's, will dramatically alter the international competitive environment. The Office of the Special Trade Representative (STR) is currently reviewing a recommendation from the U. S. chemical industry, submitted through the formal STR advisory process, which requested that a selected list of key chemical products be withdrawn from consideration for tariff cuts at the multilateral trade negotiations. The European Economic Community recently proposed a similar measure which, if accepted, would reduce their offer in chemicals to approximately one-half that offered currently by the United States. The U. S. chemical industry is concerned that if our U. S. negotiations do not allow comparable withdrawals the result will be a trade agreement that is gravely nonreciprocal. The potential for long-term disruption of economic health and competitive status is serious.

NATURAL GAS COMPROMISE MOVES NATIONAL ENERGY PLAN ONE STEP CLOSER TO PASSAGE

The basic principles of the natural gas pricing provisions of President Carter's energy bill were finally agreed to on May 24, after six months of closed-door bargaining sessions which excluded some of the conferees themselves. In a prepared statement, the President praised the House and Senate energy conferees for reaching an agreement, saying, "This historic agreement represents a long overdue step toward creation of a truly national market for natural gas, as well as a crucial breakthrough toward enactment of the long-delayed national energy legislation."

AP00025439

Secretary of Energy, James Schlesinger, told a news conference that despite a threatened Senate filibuster the compromise will receive a majority of support in the House and Senate. The Secretary described the compromise as "a step in the right direction" because it eliminates distinctions between the interstate and intrastate gas markets. He estimated the natural gas pricing mechanisms in the compromise would encourage production of two trillion cubic feet of gas.

Conference Chairman Harley Staggers (D-WV), who supported the proposal although he personally does not agree with the compromise, told the gas industry, "This bill is generous to you to produce the gas that our nation needs and we will personally consider it treason against the interests of America if you withhold gas from the marketplace in the future ... If this bill becomes law, you will be under the greatest scrutiny. I and my colleagues and the American people will be monitoring your behavior."

Because of continued dissatisfaction with the natural gas bill from consumer groups, who feel the public will be ripped-off, and hard-core pro-deregulation industrialists, who feel the phased-deregulation is not adequate, the compromise reached on May 24 is considered unstable. Strong opposition is expected when the natural gas bill reaches the floor of the House of Representatives, and the Senate is reportedly rounding up forces to mount a filibuster when the bill reaches the Senate floor. One thing is certain - the bill has some difficult hurdles to clear before it moves out from under Congressional scrutiny to the White House.

The compromise would extend federal price controls to the intrastate natural gas market, for the first time, but would decontrol new natural gas prices in 1985. Under the compromise, residential users, small businesses, farms and industrial processors that can only use natural gas are given priority if allocation authority must be used during times of short supply. The gradual increase in the price of interstate gas that was written into the agreement is expected to raise gas prices to \$3.72 per thousand cubic feet by late 1985, just before decontrol.

The President has urged the Congress to start moving toward final passage of the first four parts of the energy plan and to begin serious negotiations on the crude oil equalization tax. Senate Finance Committee Chairman Russell Long (D-LA) has indicated he will not resume the energy tax conference until the natural gas conference report has been approved. The staff is expected to spend the next six weeks writing this report, which places in late August or early September the date when we can expect some activity from the tax conferees. The likelihood of seeing an energy tax bill is diminished as each day passes without Congressional initiatives to develop an acceptable compromise, particularly with some Members of Congress facing

AP00025440

difficult opposition in the upcoming November elections. Historically, Members of Congress have not eagerly passed pre-election legislation which will result in tax increases, the costs of which will be borne by their constituents.

COURT GRANTS MCA REQUEST FOR INJUNCTION

The U. S. District Court for the Western District of Louisiana has issued a preliminary injunction barring the EPA from implementing regulations designed to provide for penalties and liability for spills involving hazardous materials.

The District Court action was in response to a Manufacturing Chemists Association suit requesting injunctive relief from the regulations promulgated pursuant to section 311 of the Federal Water Pollution Control Act. The MCA filed its motion for a preliminary injunction on May 22. The court will rule on MCA's original complaint and motion for permanent relief in the future.

EPA published final regulations on section 311 on March 13, which provide fines for spills amounting to millions of dollars as well as requirements that a violator pay for mitigating the effects of the spill. In its motion, MCA contended that the final regulations would have a serious impact on the chemical industry.

In his opinion, Judge Early Veron said that a delay in implementing the regulations will not significantly injure the interests of the public.

"...immediate implementation is by no means essential to protection of the environment or the public interest. This conclusion is supported by the continued enforcement of the NPDES (National Pollution Discharge Elimination System) permit system as well as by the fact that new regulations controlling discharges of toxic pollutants are to be developed within the framework of the existing permit structure by 1984."

In discussing EPA's tests for harmful quantities, Judge Veron wrote,

"In order for a statutory system intended to control pollution to have any reliability and legitimacy, the tests which form the underpinnings of the system must have some rational relationship to the harm sought to be prevented. It must also treat all citizens who discharge under similar circumstances with a certain degree of uniformity. Such is not the case in the challenged regulations.

First, even the EPA itself does not contend that the values chosen for enforcement of the regulations represent discharges which are harmful in fact. It

AP00025441

simply contends that the values are easier to use than any other test developed. Second, the regulations, as finally promulgated, draw an unreasonable distinction between chemical manufacturers operating with a valid NPDES permit and those without a permit. Under the regulations, a manufacturer who applies for an amended permit (or who has been granted a permit) may discharge hazardous substances in amounts in excess of the quantities which the EPA has deemed to be hazardous without in any way triggering the notification and penalty provisions. On the other hand, a manufacturer discharging exactly the same amount of the same hazardous substances under exactly the same circumstances may be fined heavily if it has failed to apply for a permit or if its permit has expired."

The Courts preliminary injunction against the 311 regulations will remain in effect until it makes a final decision on the merits. The parties have agreed on an expedited final briefing schedule and a final ruling is possible by the end of July.

TAX REFORM BILL STALLED

The Administration's tax cut/tax reform proposal, HR 12078, which was submitted to the Congress in January, has been stalled in the House Ways and Means Committee. Hearings before the Committee were completed in early April, but markup of the bill has not resumed following three days of Committee markup activity in mid-April.

Ways and Means Committee Members have been unable to reach a consensus on several alternatives pending before the Committee. These alternatives include:

- the Administration's package, H.R. 12078;
- the capital gains tax cut bill, H.R. 12111, introduced by Representative William Steiger (R-WI) which would reduce the capital gains tax rate to 25 percent;
- a compromise proposal sponsored by Representative James Jones (D-OK) which contains a provision to reduce the effective capital gains tax rate to 35 percent; and
- a proposal by Representative J. J. Pickle (D-TX) and Representative Charles Vanik (D-OH) to extend existing tax cuts another year.

Chairman Al Ullman (D-OR) hopes to resume markup sessions as soon as he believes that a majority of the Committee will support one of the alternatives.

AP00025442

In an effort to muster Democratic support in the Ways and Means Committee, Administration officials agreed with the Committee's leadership to strip its tax-cut bill of so-called reform elements and to pare it to \$15 billion. With this development early resumption of markup appears likely.

On June 28-29, the Senate Finance Subcommittee on Taxation and Debt Management will hold hearings on several bills affecting the taxation of capital gains.

Observers in Washington do not envision 1978 as the year for general tax reform. The Congress is more likely going to report out a bill which contains some tax cuts, but few tax reform provisions.

OIL SPILL LIABILITY AND COMPENSATION ACT

The Senate Environment and Public Works Committee will soon begin to markup S. 2900 as reported by the Subcommittee on Environmental Pollution June 20th. S. 2900 establishes a \$200 million revolving fund generated by a 3¢ per barrel fee on oil received for export or import by oil handling facilities. Additionally, the bill sets liability limits for vessels and on and off shore facilities for spills of oil and hazardous substances. Money in the fund could be used for spill cleanup and payment for damages, economic losses and restoration of natural resources.

MCA, in a statement to the Subcommittee, stated opposition to the inclusion of hazardous substances in the oil spill superfund. Stating that MCA "does not dispute that some chemical substances, when present in harmful amounts, can be a significant hazard to the environment ... however, this complex problem deserves careful and comprehensive study". MCA further recommends that the problems of spills of hazardous substances be addressed separately from oil spill liability legislation.

GREATER INDUSTRIAL ENERGY CONSERVATION SOUGHT BY KENNEDY

Senator Edward M. Kennedy has expressed an intention to probe, once again, the potential in the industrial sector for greater energy conservation. The Senator has asked the staff of his Energy Subcommittee of the Joint Economic Committee to begin looking at industries where the potential for increased energy conservation is most possible. The Subcommittee staff will base its effort on the assumption that 2,000 existing industrial plants utilize 80 percent of all industrial energy and the 15,000 boilers and furnaces use 16 percent of all energy consumed in the United States. A Kennedy staffer reported that, "the government has an interest in seeing that all of those are being operated at maximum efficiency and in how that can be done without mandatory standards. That's where the Senator is very curious."

AP00025443

However, one of the means of achieving greater industrial conservation that the staff is investigating would be to reconstruct the energy reporting system within the Department of Energy. The present third-party "voluntary" reporting system, which allows a chemical company to report its energy conservation to a trade association which then aggregates the data of many chemical companies and reports energy conservation of our entire industry, has been severely criticized in the past. Last summer, during the consideration of the conservation portion of the National Energy Plan, attempts were made by Senator Kennedy and others to require corporations to report energy efficiency on a product-by-product, process-by-process basis directly to the government. There was also an attempt to require industry to report its "energy wasted" by using the theoretical second law of thermodynamics. Although both these efforts failed, the energy conservation conferees did adopt provisions requiring all plants using one trillion Btu's or more per year to report energy consumed on forms provided by the Department of Energy.

A second area that the staff will consider is government subsidization of industrial plant/process modifications. The staff will explore ways in which the government can assist business in taking the difficult step of conserving energy through modification of industrial equipment and accelerated implementation of advanced technologies.

Senator Kennedy's renewed interest stems from his feeling that energy conservation thus far has required very few major risks by industry, and that future conservation will require capital intensive plant modifications. Although the Energy Subcommittee of the Joint Economic Committee will not draft specific legislation, the Committee's ideas and Senator Kennedy's influence frequently become focal points of legislation elsewhere in the Congress.

The chemical industry has repeatedly pointed out to Members of Congress and Executive Branch energy officials that improved energy conservation is a competitive necessity to our industry. The MCA has also expressed the undesirability of increased governmental regulation and tax schemes calculated to limit our energy use.

In fact, companies participating in the Manufacturing Chemists Association voluntary energy conservation reporting program actually used less energy for fuel in 1977 than in 1972. The 112 reporting companies saved 14.2 percent of their fuel use per unit of output in calendar year 1977 compared to base year 1972. If allowance is made for the energy required to meet occupational safety and health and environmental regulations not in effect in 1972, the actual savings become 15.4 percent. The 14.2 percent reduction in fuel use is a savings of the equivalent of more than 94 million barrels of imported oil valued at about 1.3 billion.

AP00025444

Individual company reports indicate that process modifications and new processes designed to conserve higher-priced energy account for most savings. Companies also cited such measures as added insulation, controls, steam traps, improved maintenance, furnace waste heat recovery, improvements in boiler operation, burning of waste by-products and increased cogeneration of electricity and mechanical shaft horsepower.

The 1977 aggregate energy conservation results put MCA reporting companies ahead of a 1980 government-targeted savings of 14 percent over base year 1972.

TOXIC SUBSTANCES AUTHORIZATION BILL DEFEATED

On June 12, House Members, led by Representative James Collins (R-TX), defeated the Environmental Protection Agency Authorization bill (H.R. 12441) which would have increased the authorization for implementation of the Toxic Substances Control Act from \$15 million to \$50 million in fiscal 1979. The increased funding was requested to allow EPA to begin enforcing the 1976 Act, which is designed to monitor the safety of chemicals before they enter the marketplace.

The failure of the authorization bill was a surprise to supporters, who had sought its passage under suspension of the rules. This procedure requires approval by two-thirds of the voting Members rather than a simple majority. The final vote, 190-188, was 62 votes shy of the necessary two-thirds.

There was speculation that the approval, on June 6, of Proposition 13 by California voters was a factor influencing some of the members who want their voting record to reflect their opposition to increased spending.

The June 12 vote under suspension of the rules does not necessarily mean that the funding for EPA to implement TOSCA will be denied. It is almost certain that the authorization bill will be rescheduled on the general calendar of the House, and another vote will be taken before the end of the Second Session. An Administration bill, H.R. 12936, is also pending which would provide authorizations of \$46.5 million for EPA to use for control of toxic substances.

SENATE AND HOUSE HOLD INVESTIGATIVE HEARINGS ON THE RELATIONSHIP BETWEEN THE DEPARTMENT OF ENERGY AND ENERGY LOBBY GROUPS

The Senate Energy and Natural Resources Committee, pursuant to its legislative and oversight responsibilities over the Department of Energy, held the first in a series of hearings examining the relationship between DOE and energy lobby groups. The Senate hearings were chaired by Senator Howard Metzenbaum

AP00025445

(D-OH), a strong supporter of consumer interests and open government, who was greatly troubled by reports which indicated that the DOE has been regularly providing petroleum industry lobbyists with internal information that has not been made available to the general public. The hearing was triggered when an API lobbyist's internal office memo was made public by Congress Watch, one of Ralph Nadar's Congressional lobby groups.

On June 16, the Committee heard testimony from two persons employed by the American Petroleum Institute. The statements appeared in progress reports to API between July 1977 and March 1978, and contained assertions that on numerous occasions the API employees received copies of official DOE regulations, notices of hearings, proposed rules and enforcement activities prior to the time they were released to the general public.

In Senator Metzenbaum's press release announcing the hearings, he said,

"Not only are parties that receive this information given advance lead time to prepare rebuttals or offer counterproposals, but they are permitted to influence secretly the drafting of public decisions which have tremendous economic consequences for both producers and consumers. The disclosure of these activities by various DOE personnel and the absence of strict procedures to prevent and punish similar actions in the future only contribute to the American public's growing distrust of government."

Senator Metzenbaum publicly announced that nothing was uncovered in the pre-hearing investigation which suggests that API employees were involved in illegal activity. The Committee, however, will hold future hearings which will focus on consumer access to internal DOE material as well as question various DOE officials who allegedly provided internal information to API lobbyists.

House hearings on API access to DOE information in the Energy and Power Subcommittee of the Interstate and Foreign Commerce Committee, chaired by Congressman John Dingell (D-MI), are scheduled to begin June 27.

PRODUCT LIABILITY

The House Ways and Means Subcommittee on Miscellaneous Revenue Measures is expected to hold hearings toward the end of June or early July on a number of bills which would provide a tax deduction for amounts held in reserve for payment of product liability losses or for related purposes.

AP00025446

On the Senate side, S. 3060 has been introduced by Senators Harrison Williams (D-NJ) and Jacob Javits (R-NY) concerning workers' compensation. One component of this bill pertains to product liability and would require that if workers sue manufacturers of machinery or products, their awards must be reduced by the amount of benefits obtained under workers' compensation. In addition, the legislation would prohibit transferring liability from the manufacturer to the employer. This legislation is expected to be taken up by the Labor Subcommittee of the Senate Human Resources Committee soon after the Senate completes action on the Labor Reform bill.

OSHA INSPECTORS MUST HAVE WARRANTS

In a decision favorable to the business community, the Supreme Court of the United States ruled, 5-3, that government inspectors looking for health and safety hazards may not "spot check" businesses without a warrant.

The decision effectively strikes down the inspection provisions of the 1970 Occupational Safety and Health Act on the grounds that such inspections invade employer privacy in violation of the Fourth Amendment's ban against unreasonable searches and seizures. The decision was handed down in Marshall, Secretary of Labor, et al, v. Barlow's Inc. (No. 76-1143).

The Act, administered by the Department of Labor, covers nearly six million business sites and involves approximately 1,470 inspectors. The Act sanctions civil penalties and, in cases of flagrant violations, criminal penalties.

In what was generally viewed as a major setback for OSHA, the Court ruled that if agency inspectors are denied entry into a workplace, they must obtain a warrant in order to inspect the premises. However, OSHA's ability to obtain a warrant will not require a demonstration of probable cause to believe that working conditions violate the Act. OSHA can obtain a warrant by showing that "reasonable legislative or administrative standards for conducting an ... inspection are satisfied with respect to a particular establishment."

The provision was challenged by Barlow's Inc, an Idaho plumbing and heating firm whose president, Ferrol Barlow, turned an inspector away in 1975 even after the inspector obtained a court order. Barlow's won an order by a three-judge Federal panel in Boise. Dissenting from Justice Byron White's majority opinion were Justices Stevens, Blackmun and Rehnquist. Justice White noted that a warrant requirement will not impose serious burdens upon OSHA's inspection system since after being refused entry into a workplace, OSHA can seek an ex parte warrant and reappear at the workplace without further notice to the establishment being affected.

AP00025447

OSHA Administrator, Eula Bingham, stressed that the Supreme Court's decision "does not change the employer's responsibility" to provide a healthy and safe workplace for his employees.

LNG SAFETY AND SITING BILL
WAITS FOR FLOOR ACTION IN THE HOUSE

H.R. 11622, the controversial Liquefied Natural Gas Safety and Siting Bill, is currently waiting to be scheduled for House floor consideration. The bill was reported out of the Interstate and Foreign Commerce Committee on May 10.

The LNG legislation imposes strict controls on the operation, siting and construction of LNG facilities in the United States. It would authorize the Secretary of Transportation to require pipeline operators to keep general descriptions of existing pipeline facilities. The bill would also require the Secretary of Transportation to consider a wide range of safety, health, and environmental requirements before allowing the construction of a new LNG terminal.

There has been no similar legislation introduced in the Senate.

PRESIDENTIAL COMMISSION ON COAL CREATED:
COAL INDUSTRY CRITICIZED AS DISCRIMINATORY

On May 26, President Carter issued an Executive Order creating the Presidential Commission on Coal. West Virginia Governor Jay Rockefeller will serve as the Chairman. In addition to Rockefeller, former Labor Secretary Willard Wirtz and Continental Oil Company Director W. Dewey Presley were appointed as Commissioners. Two other members will be appointed at a later date. One of the vacancies will reportedly be filled by a nominee of the United Mine Workers of America and the other by a nominee of the Bituminous Coal Operators Association. Energy Secretary James Schlesinger, Labor Secretary Ray Marshall, and three as yet unnamed members from both the House and Senate are expected to participate on the panel as non-voting members.

The Commission is empowered to review the economic health of the coal industry; labor-management relations; health, safety and living conditions in the coal fields; the development and application of new technologies using coal; and the impact of federal regulations on the coal industry. A final report will be submitted to the President within a year of the Commission's first meeting.

AP00025448

In a related development, the Labor Department announced that its Office of Federal Contract Compliance Programs will soon notify 153 coal mining employers in Kentucky, Tennessee, Virginia, and West Virginia that their affirmative action plans are going to be reviewed. The review is expected to lead to systematic establishment of goals and timetables for hiring women and minorities, and, where employers refuse to comply, to cancellation of federal cost-buying contracts. The contract compliance program bars discrimination by companies that do at least \$10,000 worth of business with the federal government.

The Labor Department's action is in response to a complaint from women's groups which alleged that 97.8 percent of all coal industry employees are male. The women's groups described the coal industry as "probably the most blatantly discriminating industry in the country today." The complaint also alleged that 96 percent of all coal industry employees are white.

COAL SLURRY PIPELINE DEVELOPMENTS

H.R. 1609, legislation that allows for the construction of coal slurry pipelines, has passed both the House Public Works and Interior Committees. The Transportation Subcommittee of the Interstate and Foreign Commerce Committee is expected to release written comments on the approved legislation on June 21. The bill will then be scheduled for floor consideration.

In the Senate, the Resource Subcommittee of the Energy and Natural Resources Committee completed hearings on three separate coal slurry pipeline bills (S. 3046, S. 707, S. 1492) on June 19. Markup on these three bills is not expected to take place until late August. S. 3046 resembles H.R. 1609, but the other two pending bills have completely different provisions.

Areas of controversy which separate the bills include the following: what part of the federal government should be charged with the jurisdiction over the pipelines, potential impact on the rail industry, environmental considerations, regional energy needs and water requirements.

LOBBY REFORM BILL STALLED IN SENATE COMMITTEE: HOUSE CONTINUES GRASS ROOTS LOBBYING INVESTIGATION

Lobby Reform legislation is pending in the Senate Governmental Affairs Committee. Two days of markup were held on May 10 and 11 on S. 2971 (Ribicoff, Kennedy), but further action has been postponed pending completion of committee work on civil service reform legislation.

AP00025449

The House passed its version of the lobby reform legislation (H.R. 8494) on April 26. The House-approved legislation contains two objectionable amendments relating to "grassroots contacts" and financial disclosure. The Senate bill contains those House provisions as well as even more stringent guidelines for lobbying groups.

Another lobby reform bill (S. 2026, Muskie-Mathias) is also pending before the Senate Governmental Affairs Committee. This bill does not contain the grassroots lobbying or disclosure of contributor provisions, as do H.R. 8494 and S. 2971.

In a related action, the House Government Operations Subcommittee on Commerce, Consumer and Monetary Affairs, chaired by Representative Benjamin Rosenthal (D-NY), held three days of hearings in late May (22-25) investigating enforcement by IRS of section 164(e) of the Internal Revenue Code which prohibits business tax deductions for expenditures attributable to grassroots lobbying activities.

On May 23, Victor L. Lowe, Director of General Government Division of the General Accounting Office, presented his testimony to the Subcommittee. Mr. Lowe pointed out that in May 1974, the Senate Subcommittee on Environment of the Commerce Committee held hearings which "illustrated the lack of clear, concise guidance for determining what constitutes non-deductible grassroots lobbying advertising campaigns." As a result, the GAO made specific recommendations to the IRS which included clarifying existing regulations in the area of grassroots lobbying.

In January 1978, the Subcommittee asked the GAO to determine whether tax returns and other taxpayer-supplied data provide sufficient information relating to the degree of grassroots lobbying by a tax-exempt organization or by a corporation. Mr. Lowe presented the Subcommittee with the conclusions of the GAO study:

- generally taxpayers do not provide the IRS with adequate information to assure proper treatment of political lobbying expenses in accordance with IRS code;
- it is essential that the IRS make the reporting regulations as clear as possible so taxpayers will file sufficient information, and
- a standardized reporting system does not exist in which it is clear from reviewing tax returns whether corporations or tax exempt organizations engaged in and properly accounted for non-deductible lobbying activities.

AP00025450

CHEMICAL INDUSTRY RANKS HIGH IN ANTI-POLLUTION
EXPENDITURES FOR 1977

The Bureau of Economic Analysis, based on a survey conducted in November and December of 1977, reported that U. S. businesses have planned to increase pollution-related capital expenditures for new plants and equipment by 7.2 billion dollars in 1978. Industrial spending to abate air, water and solid waste pollution amounts to an increase of 3 percent, the same overall increase reported by BEA in 1976 and 1977. The 3 percent increases in 1976-78, smaller than the rise of 7 percent and 17 percent in 1974 and 1975, respectively, represent an alignment by business with the compliance schedules of the Clean Air Act of 1970 and the Federal Water Pollution Control Act Amendments of 1972.

BEA reported that six industries accounted for 79 percent of the anti-pollution capital spending in 1977. The chemical industry ranked third behind electric utilities and petroleum (\$2.3 billion and \$1.2 billion, respectively) with capital expenditures of \$700 million planned for 1977. The steel, paper and nonferrous metals industries expended a combined total of \$1.4 billion. The chemical industry was also listed among the five industries which channeled 10 percent or more of their plant and equipment investment for pollution abatement in 1977.

LABOR LAW REFORM PROPONENTS FAIL TO HALT DEBATE

After nearly two months of sustained debate, opponents of the controversial labor law reform bill, H.R. 8410, succeeded in forcing the Senate leadership to withdraw the bill from further consideration. Six attempts to invoke cloture were unsuccessful, and on June 22, the Senate agreed by unanimous consent to recommit the bill to committee status with instructions that the committee not report the bill out for further floor consideration prior to July 15.

This action by the Senate leadership is viewed as a deadly blow to the bill for the 95th Congress. The Second Session is rapidly drawing to a close, and there are other important pieces of legislation that must be considered before the Senate adjourns.

AP00025451