AGENDA

MEETING OF THE CMA BOARD OF DIRECTORS
Monday and Tuesday, January 27-28, 1986
Great Heron Hall
Ocean Reef Club, Key Largo, Florida

| Monday, January 27, 1986 | | | TAB |
|---|---|---|---|
| 9:00-9:05 a.m. | 1. | Call to Order and Approval of Minutes of October 21, 1985 Meeting -- Chairman Sella | |
| 9:05-9:25 | 2. | Report of the Chemical Industry Trade Advisor -- Dexter F. Baker, Air Products and Chemicals, Inc. | 1 |
| 9:25-9:50 | 3. | Annual Report of the International Trade Committee Chairman: Allan J. Spilner, Rohm and Haas Company | |
| 9:50-10:15 | 4. | Annual Report of the Health and Safety Committee Chairman: Bruce W. Karrh, M.D., E. I. du Pont de Nemours & Company | |
| 10:15-10:45 | 5. | Report of the New Jersey Chemical Industry Council -- J. B. Reid, Chairman, CIC/NJ (American Cyanamid Company); and Hal Bozarth, Executive Director, CIC/NJ | 2 |
| 10:45-11:10 | 6. | Annual Report of the Tax Policy Committee Chairman: William M. Bellamy, Jr., Union Carbide Corporation | |
| 11:10-11:25 | 7. | Tax Reform Legislation Status Report and Outlook-- St. Clair J. Tweedie, American Cyanamid Company (Chairman, GRC Tax Legislation Task Group) | 3 |
| 11:25-11:45 | 8. | Report of the President -- Robert A. Roland - Program and Issue Highlights | 4 |
| 11:45-11:50 | 9. | New Business | |
| 11:50 | 10. | Adjourn | |

| Tuesday, January 28, 1986 | | | TAB |
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| 8:00 a.m. | 1. | Call to Order -- Chairman Sella | |
| 8:00-8:08 | 2. | Report of the Executive Committee -- Chairman Clark | |
| 8:08-8:10 | 3. | Report of Nominating Committee -- Chairman Sella | |
| 8:10-8:15 | 4. | Association Activities | |
| | | a. Treasurer's Report -- Gary C. Herrman | 5 |
| | | b. Internal Administrative Changes -- Gary C. Herrman | 6 |
| 8:15-8:30 | 5. | Proposed Policy on Chemical Tariff Cutting in Multilateral Trade Negotiations (MTN): Consideration of Executive Committee Recommendations -- Allan J. Spilner, Rohm and Haas Company (Chairman, International Trade Committee) | 7 |
| 8:30-8:45 | 6. | Proposed Policy on the Reauthorization of the Hazardous Materials Transportation Act: Consideration of Executive Committee Recommendations -- Robert A. Christman, Mobay Chemical Corporation (Chairman, Distribution Committee) | 8 |
| 8:45-9:10 | 7. | Annual Report of the Distribution Committee Chairman: Robert A. Christman | |
| 9:10-9:30 | 8. | Proposed Program to Increase Coordination of Industry Political Activity: Consideration of Executive Committee Recommendations -- Kenneth E. Davis, Rohm and Haas Company (Chairman, Government Relations Committee); and Ken W. Cole, Allied-Signal Inc. (Chairman, GRC Campaign Task Group) | 9 |
| 9:30-9:55 | 9. | Annual Report of the Communications Committee Chairman: Michael E. Thompson, Amoco Chemicals Company | |
| 9:55-10:20 | 10. | Annual Report of the Patent and Trademark Committee Chairman: Thomas I. O'Brien, Union Carbide Corporation | |
| | 11. | Toxic Air Emissions | |
| 10:20-10:27 | | a. Overview of Issue and Activities of Ad Hoc Executive Committee-EMC Work Group -- Harold A. Sorgenti, Board Vice Chairman | 10 |

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|---|---|---|---|
| 10:27-10:35 | | b. Status Report and Outlook on Federal and State Air Toxics Legislation and Regulation -- Philip C. Holladay, Shell Chemical Company (Chairman, GRC Clean Air Act Task Group) | 11 |
| 10:35-11:05 | | c. Proposed Air Toxics Control Policy and Implementation Recommendations and Options -- Harold A. Sorgenti; Frank C. Berryman, Chevron Chemical Company (Chairman, Environmental Management Committee); and Richard A. Symuleski, Amoco Corporation (Environmental Management Committee) | 12 |
| 11:05-11:25 | | d. Proposed Air Toxics Legislative Principles -- Vincent J. Marchesani, ICI Americas Inc. (Sponsor, EMC Air Issues); Robert F. Kelley, Union Carbide Corporation (Chairman, EMC Air Legislative Issues Task Group); and Philip C. Holladay | 13 |
| 11:25-11:35 | | e. Final Discussion and Action on Air Toxics Emissions Control Policy and Legislative Principles -- Harold A. Sorgenti | |
| 11:35-12:10 | 12. | Superfund Reauthorization<br>a. Overview and Association Activities-- William M. Stover<br>b. Legislative Status -- Wells Denyes, Eastman Kodak Company (Chairman, GRC Superfund Task Group)<br>c. Discussion of Funding Policy and Consideration of Executive Committee Recommendations -- George J. Sella, Jr. | 14 |
| 12:10-12:15 | 13. | New Business | |
| 12:15 | 14. | Adjournment | |

CMA 038560

MINUTES of the three-hundred sixth meeting of the Board of Directors of the Chemical Manufacturers Association, Inc., held in the Great Heron Hall, Ocean Reef Club, Key Largo, Florida, on Monday and Tuesday, January 27 and 28, 1986. There were present:

Directors

George J. Sella, Jr., Chairman (2)
Harold A. Sorgenti, Vice Chairman
Robert A. Roland, President
Dexter F. Baker
Max S. Bass
Alan Belzer (1)
Arthur E. Biggs
Robert D. Cadieux
Carlyle G. Caldwell
W. H. Clark, Jr.
Harry Corless
Robert W. Davis
Keith H. Edmondson
Robert B. Fell
F. Jack Fitzgerald
Robert C. Forney
D. George Harris
P. W. Ifland (1)
Ray R. Irani (1)
John W. Johnstone, Jr.
Robert D. Kennedy
Hans H. Kopper
Sidney H. Leahy
Carl W. Lorentzen
H. Eugene McBrayer
Keith R. McKennon
Robert H. Mallot (1)
Robert L. Mitchell (1)
L. John Polite, Jr.
Seymour S. Preston, III
Thomas E. Reilly, Jr.
M. Whitson Sadler
James F. Schorr
Charles E. Stewart
S. Jay Stewart
William Wishnick

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

By Invitation:

William M. Bellamy, Jr. - Union Carbide Corporation
Frank W. Berryman - Chevron Chemical Company
Hal Bozarth - Chemical Industry Council of New Jersey
Robert A. Christman - Mobay Corporation (2)
Ken W. Cole - Allied-Signal Inc. (2)
Geraldine V. Cox - CMA
Kenneth E. Davis - Rohm and Haas Company
Wells Denyes - Eastman Kodak Company
Edward D. Griffith - ARCO Chemical Company
Philip C. Holladay - Shell Oil Company
Edwin C. Holmer - Exxon Chemical Company
Jon C. Holtzman - CMA
E. Hamilton Hurst - Nalco Chemical Company
John F. Hussey - Monsanto Company (2)
Bruce W. Karrh, M.D. - E. I. du Pont de Nemours & Company (1)
Robert F. Kelley - Union Carbide Corporation (2)
Conrad Kent (SOCMA) - Stauffer Chemical Company
Vincent J. Marchesani - ICI Americas Inc.
Thomas I. O'Brien - Union Carbide Corporation (2)
Michael A. Pierle - Monsanto Company
J. B. Reid - American Cyanamid Company (1)
Vernon R. Rice - E. I. du Pont de Nemours & Company
Randal P. Schumacher - CMA (1)
Allan J. Spilner - Rohm and Haas Company (2)

William M. Stover - CMA
Richard A. Symuleski - Amoco Chemicals Company
St. Clair J. Tweedie - American Cyanamid Company (1)
Juliane H. Van Egmond - American Cyanamid Company
James P. Watkins - American Cyanamid Company
Benjamin Woodhouse - Dow Chemical U.S.A.

(1) First day only
(2) Second day only

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1. MINUTES OF THE OCTOBER 21, 1985, MEETING

The meeting was called to order at 9:00 a.m. on Monday, January 27, by Vice Chairman Sorgenti. The minutes of the October 21, 1985, Board meeting were approved as distributed.

2. TRADE ADVISOR

Mr. Baker presented the annual report of the Office of the Chemical Industry Trade Advisor (OCITA). A copy of Mr. Baker's report is attached as Exhibit A.

3. INTERNATIONAL TRADE COMMITTEE

Mr. Spilner presented the annual report of the International Trade Committee. A copy of Mr. Spilner's remarks is attached as Exhibit B. Following the presentation, there was a brief discussion of the shifting nature of the industry's exports from commodities to specialty products. Messrs. Baker and Spilner agreed to make available additional information detailing these developments and this impact.

4. HEALTH AND SAFETY COMMITTEE

Dr. Karrh presented the annual report of the Health and Safety Committee. A copy of Dr. Karrh's remarks is attached as Exhibit C. At the conclusion of the presentation, there was additional discussion of the CAER program and the extent to which it had been implemented by all of CMA's member companies. It was agreed that a follow-up letter would be sent to companies who have not reported. In addition, it was also agreed that a status report on CAER implementation by all member companies should be sent to Executive Contacts.

With respect to product liability reform, there was discussion of the Danforth proposal as well as related activities under way at the state level.

Mr. Roland expressed his appreciation to Dr. Karrh and the members of the committee for the outstanding job which had been done to consolidate a range of extremely important activities and to structure CMA's advocacy in these areas in a very positive manner.

5. NEW JERSEY CHEMICAL INDUSTRY COUNCIL

Mr. Roland introduced this report by reviewing the presentation given at the September Board meeting by Mr. W. T. Wood, Jr., on behalf of a special ad hoc group. This group had conducted a study of the status and programs of the 18 state chemical organizations. Mr. Roland reported that as a result of comments made by several of the directors for more specific requests for action regarding individual CICs, Mr. Wood solicited requests for support from the various state organizations at their annual meeting in October. The New Jersey CIC was the first to respond to this opportunity.

Mr. Reid, Chairman of the NJ CIC, presented an overview of the Council and its history, activities and programs. He highlighted the evolution of the Council during the past 30 years from an organization whose primary purpose was educational to one with a respected advocacy focus.

Mr. Bozarth, Executive Director of the NJ CIC, reported on key legislative and regulatory issues which have had a substantial impact on the industry, not only in New Jersey, but around the country as well. He provided details of the CIC's programs to address these issues and to support CMA priorities such as CAER.

Mr. Reid requested additional support in five areas, identified in Exhibit D, which would markedly increase the CIC's effectiveness. Those recommendations were unanimously adopted. In the discussion following the report, the Board expressed their strong support for the NJ CIC and the program it presented.

6. TAX POLICY COMMITTEE

Mr. Bellamy presented the annual report of the Tax Policy Committee. A copy of Mr. Bellamy's report is attached as Exhibit E. He highlighted the successful role of the Committee in representing the particular concerns of the chemical industry which are not being adequately represented by other business organizations. He also described the Committee's efforts, to date, with respect to the pending tax reform legislation.

7. TAX REFORM LEGISLATION

Mr. Tweedie presented a report (Exhibit F) on the status and outlook for tax reform legislation in this Congress. There was considerable discussion of the impact of tax reform on the industry and the appropriate role and level of effort for the Association with respect to this issue. CMA's posture, pursuant to Executive Committee and Board discussion in the fall, has been to focus on those issues of critical importance to the industry, particularly those which are not being adequately advocated by other business groups. The CMA plan was premised on an exceptionally high degree of member company participation and leadership.

Further discussion of this issue was deferred to the Executive Committee meeting that afternoon.

8. NEW BUSINESS

Mr. Davis spoke to the necessity of taking a more deliberate approach to coalitioning and urged the Executive Committee to consider a more efficient means of accessing the resources and coordinating the advocacy of the other chemical and related industry associations. Mr. Clark indicated that this was on the Executive Committee's agenda.

Mr. Sorgenti recognized the presence of former Board Chairman Holmer.

The issue of a letter sent by Mr. Roland regarding the observance of Martin Luther King Day was discussed.

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The Board adjourned at 11:45 a.m. until Tuesday, January 28.

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Tuesday, January 28, 1986

The meeting was called to order by Chairman Sella at 8:00 a.m.

9. PRESIDENT'S REPORT

Mr. Roland's report is attached as Exhibit G. Departmental Vice Presidents highlighted the following issues:

G.V. Cox -- Formation of three new special programs and continued cooperation between CMA, AAR and RPI.

D.F. Zoll -- Developments relating to the insurance issue, including the formation of the Special Committee on Insurance and discussion of possible commercial insurance vehicles under way outside of CMA. Smaller companies interested in exploring such solutions to their insurance needs were urged to communicate with CMA. Also discussed were developments relating to EPA's Superfund enforcement policy and two recent victories for CMA involving the Federal Maritime Commission and Federal Energy Regulatory Commission.

W.M. Stover -- Developments relating to the implementation of Gramm/Rudman/Hollings.

J.C. Holtzman -- Increased media attention to the air toxics issue.

## 10. REPORT OF THE EXECUTIVE COMMITTEE

Chairman Clark reported on the items discussed and the actions taken by the Executive Committee on the preceding day. Those actions taken were:

- Approved six appointments to fill vacancies on various standing committees.

- Discussed preliminary options relating to the 1986/87 budget process.

- Approved the formation of a Special Committee on Insurance and discussed other possible CMA insurance related activities.

- Approved, for Board consideration, the nomination of Howard M. Nelson of Kaiser Aluminum & Chemical Corporation to fill the vacancy on the Board created by the resignation of Donald Smith.

- Approved, for Board consideration, a proposed policy on Chemical Tariff Cutting in Multilateral Trade Negotiations (with a minor amendment).

- Approved, for Board consideration (with the understanding that the position on creating a hazardous materials response fund be stated more positively), a proposed policy on the Reauthorization of the Hazardous Materials Transportation Act.

- Discussed a proposed program to Increase Coordination of Industry Political Activity. Although there was general agreement that the objectives of the program deserved support, the proposal was tabled until the March meeting, pending the resolution of certain legal concerns.

- Approved, for Board consideration (with certain minor changes), an Air Toxics Control Policy. Also agreed to, for internal use in implementing the policy, a set of "Procedures for Consideration by Member Companies." In addition, discussed legislative principles, implementation issues and plans.

- Discussed issues relating to Superfund reauthorization and agreed that no change in formal Association policy was necessary at this time. Consensus was reached on the following Association priorities for the Conference Committee deliberations:

    - Freeze the existing feedstock taxes.
    - Strongly oppose the Downey Amendment language.
    - Support a broad based funding component.

- Discussed interassociation coordination.

11. 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 Donald F. Smith of the Kaiser Aluminum & Chemical Corporation.

ON MOTION, duly made and seconded, it was

VOTED: That Howard M. Nelson, Senior Vice President, Kaiser Aluminum & Chemical Corporation, be elected as a Director through May 31, 1986.

12. ASSOCIATION ACTIVITIES

a. Treasurer's Report -- Mr. Herrman reported that the January Treasurer's Report will be mailed to the Board as soon as it is prepared. He also reported projected results for the 1985/86 fiscal year which included revenues of approximately $14,370,000, expenses of approximately $14,700,000 and use of reserves of approximately $330,000, all very close to the authorized budget levels. With respect to the budget for the 1986/87 fiscal year, requests for 1985 chemical sales data have been mailed and an early response was requested.

b. Administrative Changes -- Mr. Herrman presented for approval the following three resolutions, relating to the Association's checking and payroll accounts and to changes in procedures for authorizing amendments to the Association's qualified benefit plans, for the reasons described in Exhibit H.

ON MOTION, duly made and seconded, the following resolutions were VOTED:

RESOLVED: That NS&T Bank, National Association, Washington, DC (the Bank), as a designated depository of this corporation be and is hereby requested, authorized and directed to honor all checks, drafts or other orders for the payment of money drawn in this corporation's name against account number 0210-44030 including those drawn to the individual order of any person or persons whose names appear thereon as signer or signers thereof without further inquiry, when bearing the signature of:

Raymond J. O'Bryan, Controller
Charles W. Van Vlack, Corporate Secretary

FURTHER RESOLVED: That Mr. Peter Agnew, Controller, is deleted as an authorized signer against account number 0210-44030.

FURTHER RESOLVED: That all previous authorizations for the signing and honoring of checks, drafts or other orders for the payment of money, drawn on the said Bank, by this corporation against account number 0210-44030 are hereby continued in full force and effect as amplified and modified hereby.

FURTHER RESOLVED: That Mr. Charles W. Van Vlack, Corporate Secretary, is hereby requested, authorized and directed to execute such documents as are required to implement the above changes and within the intent of the approved recommendation.

* * *

RESOLVED: That NS&T Bank, National Association, Washington, DC (the Bank), as a designated depository of this corporation be and is hereby requested, authorized and directed to honor all checks, drafts or other orders for the payment of money drawn in this corporation's name against account number 0120-43099 including those drawn to the individual order of any person or persons whose names appear thereon as signer or signers thereof without further inquiry, when bearing or purporting to bear the facsimile signature of ROBERT A. ROLAND, and said Bank shall be entitled to honor and to charge this corporation for all such checks, drafts or other orders for the payment of money, regardless of by whom or by what means the actual or purported facsimile signature or reasonable reproduction thereof may have been affixed thereto including Macerated signature(s), if such signature(s) resemble or are a reasonable reproduction of the facsimile signature specimens certified or filed with said Bank by the Secretary or other officer of this Corporation, and this corporation does thereby undertake and agree to indemnify and save harmless said Bank, of and from any and all loss, damage and expense which it may suffer or incur by reason or as a result of its reliance upon or action pursuant to the authorization and direction herein contained; and

FURTHER RESOLVED: That all previous authorizations for the signing and honoring of checks, drafts or other orders for the payment of money, drawn on the said Bank, by this corporation against account number 0120-43099 are hereby continued in full force and effect as amplified hereby.

FURTHER RESOLVED: That Mr. Charles W. Van Vlack, Corporate Secretary, is hereby requested, authorized and directed to execute such documents as are required to implement the above changes and within the intent of the approved recommendation.

* * *

RESOLVED: That the President of the Association is authorized and directed, on advice of pension counsel, to amend the Pension Plan of Chemical Manufacturers Association, Inc., and the Chemical Manufacturers Association, Inc. Thrift/Deferred Compensation Plan to the extent necessary to maintain the qualification of the plans under Section 401(a) of the Internal Revenue Code.

13. INTERNATIONAL TRADE MULTILATERAL TRADE NEGOTIATIONS

Mr. Spilner presented a proposed position concerning United Stated participation in a new round of multilateral trade negotiations (MTN). The proposal reflected further committee deliberations as a result of the Executive Committee's comments at the September 1985 meeting. As a result of Executive Committee's concern for the wording of the portion of the proposal addressing foreign policy concerns, a clarifying amendment was made.

ON MOTION, duly made and seconded, it was

VOTED: That the proposed position statement, as amended by the Executive Committee and as set forth in Exhibit I, be approved.

14. HAZARDOUS MATERIALS TRANSPORTATION ACT REAUTHORIZATION

Mr. Christman presented a proposed position concerning the reauthorization of the Hazardous Materials Transportation Act.

ON MOTION, duly made and seconded, it was

VOTED: That the proposed position statement, as set forth in Exhibit J, be approved, with the understanding that the portion of the position statement addressing the creation of a hazardous materials response fund be restated in a more positive tone, while still maintaining the criteria for support identified in the position.

15. DISTRIBUTION COMMITTEE

Mr. Christman presented the annual report of the Distribution Committee, a summary of which is attached as Exhibit K.

16. INCREASED COORDINATION OF INDUSTRY POLITICAL ACTIVITY

Messrs. Davis and Cole presented a proposal for increasing coordination of industry political activity. Chairman Sella reported that this proposal had been tabled by the Executive Committee until the March meeting, pending the resolution of certain legal concerns. In the discussion that followed, questions were raised about any practical problems other associations might have experienced in conducting similar programs. It was agreed that this issue would be examined as well prior to the March meeting.

17. COMMUNICATIONS COMMITTEE

Mr. Thompson presented the annual report of the Communications Committee, a summary of which is contained in Exhibit L. He reviewed the public concerns identified in a recent Cambridge survey. The areas the committee has identified as high priorities for 1986/87 included: CAER/NCRIC implementation; state CIC communications support; legislative advocacy support for CMA/CICs; increased activity by senior executives in communications activities; and risk perception. He recommended the following specific actions to improve performance in the communications area: Idemnification of plant managers against the risks of working with the press, and ensuring that company emergency communications procedures are as up-to-date as the company emergency response procedures.

18. PATENT AND TRADEMARK COMMITTEE

Mr. O'Brien presented the annual report of the Patent and Trademark Committee, a summary of which is contained in Exhibit M.

19. AIR TOXICS CONTROL POLICY

Mr. Sorgenti and Mr. Berryman outlined the evolution of the proposed program to address the air toxics issue. Mr. Sorgenti reported on the activities of the ad hoc Executive Committee group comprised of himself, Messrs. Forney, McKennon and Street, and representatives of the Environmental Management Committee which had been appointed to resolve CMA's policy on this issue following the October Board meeting. Mr. Berryman introduced the other presenters and their individual segments.

Mr. Holladay reported on the status of existing federal and state law regulating toxic air emissions. He also described various proposals pending or expected to be introduced in the Congress and the states in 1986.

Mr. Symuleski presented the proposed policy and related implementation procedures on air toxics emissions and reviewed in detail what was intended by various elements of the proposal.

Mr. Kelley presented an overview of the package of legislative principles which had been developed to address 37 distinct legislative issues involved in air toxics. Mr. Marchesani described how the policy, options/procedures document, and the legislative principles were all integrated. Examples were presented of how the preferred, acceptable and worst case scenarios in the legislative principles are based on the policy and the various implementation procedures contemplated thereunder.

Mr. Roland presented an overview of the Association's tentative plans for implementing the policy, including options for a public announcement in March and concepts for enlisting, supporting and documenting member company participation. He indicated a work plan was under development and that an interdisciplinary team of committee members and staff would be charged with ongoing development and execution of that plan.

Considerable discussion followed concerning the language in the policy and implementation procedures. Several amendments to the policy and implementation procedures were made. The importance of being able to document member companies' performance pursuant to the policy was stressed.

ON MOTION, duly made and seconded, it was

VOTED: That the proposed policy on air toxics control, as amended and set forth in Exhibit N, be approved.

The Board agreed that it was inappropriate for it to formally vote on the implementation procedures. However, it was also agreed that the procedures were an important document and that the suggestions made by the Board to amend them should be incorporated and that the document should be subject to review and updating by the EMC as the program evolved. The implementation procedures, as amended by the Board, are set forth in Exhibit O.

On behalf of the Board, Chairman Sella expressed appreciation for the distinguished efforts of the ad hoc committee and the entire EMC.

20. SUPERFUND REAUTHORIZATION

a. Association Activities - Mr. Stover presented an overview of recent developments and related Association activities and strategies. Mr. Stover expressed his gratitude to the Dow Chemical Company for the outstanding contribution made by Mr. Lee Nute in serving as the Superfund project manager during the past year.

b. Legislative Status - Mr. Denyes' report is attached as Exhibit P. He highlighted the likely makeup of the House-Senate Conference Committee and the potential areas of conflict, and some possible scenarios for resolution. The impact of Gramm/Rudman/Hollings and the tax reform debate were also discussed. Mr. Denyes identified some ongoing areas of CMA activity, including the targeting of conferees, as well as members of the Senate Finance Committee and the House Ways and Means Committee. The various funding options being considered by the Congress were discussed.

Chairman Sella reviewed the program implemented last October and November of senior executive visits with members of Congress. He requested that the Association's plan continue to include utilization of Board members and other senior executives in visits with the conferees and the Administration. Messrs. Denyes and Stover indicated that this was part of the work plan and would be utilized as appropriate. Mr. Sella reiterated his belief that this was an extremely important activity which should be aggressively pursued.

c. Funding Policy - Chairman Sella reported on the Executive Committee's discussions regarding the Association's policy on Superfund funding. He indicated, based largely on the input from the Government Relations Committee and staff, that the Executive Committee agreed that no change in the Association's formal policy on Superfund funding was necessary and that the Association would aggressively advocate the following points in the Conference Committee debate:

- Freeze the feedstock tax at existing levels.
- Strongly oppose the Downey amendment language.
- Support a broad-based funding component.

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There being no further business, the meeting was adjourned at 12:15 p.m.

Charles W. Van Vlack
Corporate Secretary

Certified correct:

George J. Sella, Chairman
CMA Board of Directors

EXHIBIT A

Report of the Chemical Industry Trade Advisor
to the Board of Directors
of the
Chemical Manufacturers Association

January 27, 1986

Good Morning. . . .

My comments are directed to trade policy - - this morning - - and what I believe to be our industry's concerns. Hopefully - - they will dove-tail with Al Spilner's CMA International Trade Committee Report.

I wish my report this morning had better news. Unfortunately - - on trade matters - - we continue to lose ground.

Today - - as an industry - - we export approximately 10% - - of our total industry sales - - to overseas markets - - and produce another 15 - 20% abroad. As an industry - - we are one of America's major international traders. Only agriculture - - and electronic manufacture- compare with our industry - - in international trade accounts.

In Washington - - Both the executive and legislative branches of government - - have become more interested in trade during the past year. But the resulting patchwork quilt of initiatives is confused - - nd - - in some instances - - counterproductive (i.e. tax policy).

Some bills - - to be sure - - are well-conceived. Others - - unfortunately - - run the gamut from political posturing - - to downright foolish gunslinging. We cannot assume that wisdom - - or common sense - - will carry the day. Just look at the democratic tax bill - - as the latest example - - of how badly our industry has been treated.

Furthermore - - in the marketplace - - we're seeing the emergence of powerful new competitors - - different competitors than we might have envisioned only a few years ago.

The gulf states oil producers no longer hold world users on a short leash. Today they have abundant cheap feedstocks - - new low-coast production capacity - - and plenty of incentive - - to sell a lot of value-added petrochemicals in our markets. That incentive grows daily as the price of that oil barrel drops. We were all too clearly reminded of this by Saudi planning Minister Hisham Nazir at CMA's October conference.

If you follow trade statistics - - you know that the U.S. has had an increasing merchandise trade deficit since 1980. In 1985 - - and this is rough because all the numbers haven't been totted up - - it looks as if the trade deficit will be over $140-billion - - up at least 14% from 1984's deficit. As recently as 1980 - - we had a manufacturing trade surplus of $5-billion.

Notwithstanding this national disaster - - our chemical industry still achieved a statistical trade surplus - - estimated to be $7.6-billion for 1985. Although we seem to be holding our own in chemical exports - - an estimated $22.2-billion in 1985 - - chemical imports have been increasing rapidly - - by about 11% per year since 1980. They reached a record $14.6-billion last year - - and the USA's share of world trade - - declined for the 5th straight year.

In other words - - our industry trade surplus has dropped by about 37% - - since the peak year of 1980 - - earned a surplus of almost $12.2-billion.

Myron Foveaux recently gave his annual public trade prognostication for 1986. Myron's numbers are based on the forecasts - - that he obtains from about 45 of our chemical companies. He forecasts our exports will be flat in 1986 - - despite the weakening of the dollar - - and that imports will be up about 3.5 percent - - to about $15.1 million. That will result in another 7 percent decline in our trade surplus for the year - - to about $7 billion.

In short - - we are not gaining abroad - - and are losing an increasing share of our markets at home - - to foreign-based producers.

Lest we draw consolation from the fact that we have any trade surplus at all - - let's dissect its meaning. A trade surplus - - means that the sales of our exports - - exceed the sales of imported chemicals sold in the U.S. As you know - - sales alone doesn't mean much if your pockets are empty at the end of the trading day.

I believe our trade picture - - is alot gloomier than our projected $7.1 billion surplus suggests. If we had a way to calculate a trade profitability balance - - the net effect of chemical exports versus imports - - on our aggregate bottom line - - would it still be a surplus? I doubt it.

On the export side of the ledger - - I suspect a lot of companies are exporting near costs - - to preserve or build volume. Consider the comment by IMC president George Kennedy - - In the New York Times Last January - - "We've maintained - - or in some cases increased - - our (export) tonnage. If you look at our margins - - of our profitability - - that's another story. We've had to cut them - - in order to make up for the strong dollar."

Even if the U.S. can sustain a weaker dollar - - our exports still face a myriad of problems - - High tariffs - - non-tariff barriers - - subsidized nationalized competitors - - cheaper feedstocks - - and our own unique brand of legislative impediments - - including the burdensome c st of regulation.

Too often - - when we think "trade" - - We really mean "exports." But trade means exports - - and imports. And that increasing import figure - - should cause our industry to get our antenna up.

Are we simply being outgunned in our home markets by better products and productivity abroad? or - - are we the victim of overt and covert subsidies - - the largesse of our own GSP system - - our open markets - - and the adverse effect of an overvalued dollar? Trade should be a two-way street - - but in many initiatives - - both traffic lanes seem to be coming our way.

Each of our companies are impacted by foreign competition problems. Our exports have pretty much stagnated. Imports are causing price - - and volume ripples - - in many of the domestic markets. Our own government has negotiated away a piece of our industry - - bromine products - - to Israel without as much as a by-your-leave. The prospect of further concessions - - Canada - - Mexico - - and a new round of trade talks - - are not visible on our horizon.

Some of our executives have stated - - that your companies cannot tolerate further tariff concessions. Period!

I believe there is a sense within the industry - - that past multilateral trade agreements have not always been mutually equitable - - that our chemical industry has given a lot - - without getting very much in return. Regardless - - the administration is committed to a further opening of the U.S. market - - through both the bilateral and multilateral processes. It's pretty much of a "fait accomple" that several key events - - broad free trade negotiations with Canada - - and a New GATT Round - - will begin within the next 18 months - - and Mexico's current problems can become our industry's problem very shortly.

Concerning the future Multilateral Trade Negotiations - - I believe that its not realistic that we oppose an MTN. It will happen. Therefore - - we are bests served - - as an industry - - to support the process.

We should be assigning our top international people to help develop sound industry policy. We need cogent arguments. And we need allies in other industries - - to ensure that our industry will be fairly treated - - and not given up as a sacrificial lamb. Believe me - - this is a very important exercise - - As U.S. Bromine producers learned - - During the U.S.-Israel free trade process. They were lucky - - to at least avoid a precipitous removal of bromine tariffs and - - instead - - are experiencing an extended phase-down.

The CMA Board was presented with an International Trade Committee-recommended statement of principles concerning a New GATT Round. Al Spilner will discuss the ITC position in more detail.

These principles are - - of course - - general - - but they contain some important concepts:

- - The elimination of trade distorting practices - - subsidies - - non-tariff barriers - - and the like - - should have clear precedence over tariff reduction activities. An MTN should be primarily a tariff-swapping meet.

- - Trade policy should not be subordinated to our foreign policy. Too many times - - U.S./Israel for example - - U.S. producers are asked to pay the price - - for foreign policy gains.

- - The private sector should not be cut out of the negotiations.

- - The MTN process should not restrict - - the Administration's bilateral treaty effort.

- - Development of a binding dispute settlement process - - must be part of a new round. This is important. The GATT will continue to be a weak sister - - unless it is given some teeth.

- - Tariff cuts - - if any - - should be considered on the basis of foreign requests - - and - - under no circumstances - - should they volunteered across-the-board.

- - Chemical tariff concessions - - should not be made in exchange for concessions given to another U.S. industry. We are not in the business of dispensing charity.

- - We also need an investment agreement - - which will ensure that we can situate production - - where raw materials availability or markets dictate. We need to have equal access to local financing - - and markets - - and we need to know - - that a reasonable level of profits can be repatriated. Foreign National tax policy - - and investment incentives - - should be granted on a national treatment basis.

An Intellectual Property Policy - - must be part-and-parcel of any new agreement. R & D is the strength of our industry - - our "hold card". If we let it be acquired - - without compensation - - by foreign competitors - - we will be giving away a crucial part of our future.

If you look at these statements in your briefing books - - you'll see that each is an important concept - - not just a piece of blue sky.

Trade legislation is the other key international area - - with which we should be concerned. When I talk about trade legislation - - I'm focusing on import-related initiatives - - changing the import-remedy laws - - and considering the degree - - to which natural resources subsidies should be countervailed.

There are - - of course - - Many export-related areas of law - - that affect our trade competitiveness. Some such as foreign corrupt practices and anti-boycott - - which were major causes a few years back - - are still unresolved.

Realistically - - If we get a single omnibus trade bill - - it will be an achievement. Congress was in a dither in 1985 and no clear trade legislation picture emerged. Because 1986 is an election year - - We have a pretty small window - - perhaps until June for something to happen.

What that bill would finally look like is anybody's guess. The elements of such a bill - - will no doubt be drawn from several proposals - - that were introduced last session and - - possibly - - from the administration's own plan. So far - - the administration has kept its own suggested wording under wraps.

However - - some key points to look for are:

- - General Trade competitiveness - - several proposals have been made - - to establish a committee or council - - to evaluate the effectiveness of our trade laws and agreements - - or to establish what the general objective or our trade policy should be - - or some combination of the above. The object would be to elevate trade's priority - - or at least - - to make it a more visible issue.

- - Exchange rates - - proposals range from mandatory actions - - to achieve exchange rate parity - - to congressional statements - - that a conference should be held - - to explore options and mechanisms - - to prevent exchange rate fluctuations.

- - New Trade Round - - generally - - the proposals contain variations of a statement - - to authorize the Administration - - to negotiate in a New MTN Round. Some proposals go as far as to list detailed negotiating objectives. The House Republicans' proposal - - Alone - - Addresses U.S.-Canada free trade .

- - Section 201 - - - This is - - You may recall - - the "escape clause" which would allow either Congress - - the Administration - - or a private entity - - to request an investigation - - whether an industry is being injured due to imports. Unfair trade practices need not be proven. The various proposals would require industry - - to commit to an adjustment plan - - In return for a favorable finding - - would give the President less discretion in overriding ITC findings - - and would shorten the processing time for petitions.

- - Section 301 - - - this part of the trade act of 1974 - - is really an export provision. It gives the president the authority - - to retaliate against unfair foreign trade practices or barriers. Various proposals - - would - - again - - shorten the processing time - - include "targeting" as an unfair practice - - and would mandate specific U.S. retaliation measures - - against unfair processes. As with Section 201 - - Congress wants to tighten these remedies - -

making them more usable by business - - and more predictable in their outcome.

- - Intellectual property rights - - several proposals want to tighten the prosecution of violators - - and ease the process of uncovering such violations. This is particularly important to pharmaceuticals - - and pesticide producers.

- - Export Finance - - House Democrats - - favor increased future funding for direct lending. House Republicans - - on the other hand - - want treasury and ex-im to have authority to match mixed credits.

The other major import-related issue - - and this one may end up in the omnibus trade package - - is the question of whether upstream subsidies - - should be countervailable. As first proposed by Representative Sam Gibbons in 1984 - - U.S. Companies would be able to get relief - - in the form for countervailing duties - - when imports benefit substantially - - from the use of a natural resource in the manufacturing country. Benefit would be assumed - - when the natural resource is available to the foreign manufacturers - - at a price "lower than the export price - - or fair market value - - whichever is appropriate."

This upstream subsidies issue - - is a real corker for the chemical industry - - We have companies who are strongly on opposite sides of the issue.

At CMA we have a very active working group - - they met quite a few times - - during a relatively short period in 1984. That group was split right down the middle over this provision of the Gibbon's bill.

At NAM - - the same thing happened - - right down the middle.

The international trade pendulum - - has swung totally in the opposite direction since 1980. Our main concerns at the beginning of the decade - - were export oriented - - offensive measures. Now the issues are primarily import oriented - - defensive measures designed to protect our domestic markets.

Like the patriots last night - - We have to get our offense working.

To start - - we have to convince Congress - - and the Administration - - that all major legislation initiatives - - must be considered in light of how they affect our trade competitiveness. The tax initiative - - Superfund - - Export of Hazardous Substances Policy - - Monetary Policy - - Foreign Policy - - all have to be balanced against their trade effects - - which translate directly into jobs.

As The Chemical Industry Trade Advisor - - My role is to be a focal point - - for the 4 key chemical groups I mentioned earlier -

- and to assure that - - as much as possible - - our industry speaks as a single voice.

I am occasionally asked to deliver committee testimony - - in support of a policy recommendation - - that has the blessing of those groups.

I will also report to you periodically - - on developments about which you should be aware - - or which require high level industry action.

For me to do my job - - and for CMA's ITC to do its job - - we need your input - - and your support.

Last September - - CMA's ITC held a 2-day planning conference. Committee members were asked to bring a copy - - of a public statement about trade - - made by a senior executive of their respective companies. The ITC - - and I - - were surprised to learn - - that about half the companies present - - had no senior executive who had spoken out on trade - - no executive to champion trade policy activities in the company.

A sound trade policy - - for out industry - - requires a long-term commitment from all members of this Board. If our industry is to remain internationally competitive - - we must all become involved - - in convincing the administration - - that the future of manufacturing - - in this country - - requires the development - - of an aggressive trade policy initiative.

Each of you has a measure of clout with the Administration - - and key members of Congress. Let's put some of it behind CMA's International Trade Committee's efforts - - to reestablish the ground rules - - for our industry's industry's international competitiveness.

Thank you.

EXHIBIT B

# Remarks to CMA's Board of Directors

by Allan J. Spilner

Chairman, International Trade Committee

January 27, 1986

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Thank you, Mr. Chairman, and thank you, Dexter, for your excellent summary of the trade situation and the trade policy issues the U.S. chemical industry is facing. This morning, I will touch on some of these issues, and will review what CMA's International Trade Committee accomplished in 1985 and what it plans for 1986. Also, what we expect to ask of the Board in 1986.

First, a brief review of the industry's results in 1985. Shipm nts are estimated to have set another new record of $217.4 billion, about 3% above 1984. Net income after taxes was $10.6 billion, 18% below 1984's record high and about equal to earnings in 1979, when shipments were only $147 billion.

Myron Foveaux's analysis indicates that the 18% drop in net earnings was due, at least in part, to unprecedented write-offs against earnings during the year. In 1986, write-offs are expected to continue, but at a reduced level. Shipments are expect d to increase by 5%. Net earnings are expected to increase by 10%.

Dexter mentioned the U.S. chemical industry's trade surplus, which fell from $12.2 billion in 1980 to $7.6 billion in 1985, and is expected to drop further to $7.1 billion in 1986. Viewed another way, exports increased only $2 billion, or a total of 7%, over the five-year period from 1980 to 1985, while imports increased $6 billion, or 70%, during the same period. Unless this trend is reversed, the trade surplus could disappear in the future.

Why are exports barely holding their own while imports continue to increase at a relatively rapid rate? Part of the trend might be due to changing comparative advantage over which we have no control. Part of it might also be due to the still relatively high value of the dollar. However, some of the trend is certainly due to other factors such as restricted access to foreign markets.

Market access restrictions often take the form of high tariffs used to protect relatively inefficient local producers. Access is also restricted by laws requiring owners of patents in certain foreign countries to produce the product in that country or lose exclusive rights to the patent.

In such cases, the patent owner is sometimes prohibited from importing the patented product into that country when a local producer decides to make it there, and is also prohibited from collecting royalties from that producer.

Section 301 of U.S. trade law authorizes the President to retaliate against the unfair practices of foreign governments or instrumentalities which harm U.S. exports, but 301 only applies to non-tariff barriers which violate international trade agreements. At the present time, there are no effectively enforceable international agreements on intellectual property rights such as patents.

Nevertheless, CMA is already on record in strong support for the establishment of such agreements and, where appropriate, has included statements to that effect in testimony over the last f w years.

The trend of rising imports might also be due, in part, to the United States being overly generous in continuing to grant duty-free entry under the Generalized System of Preferences (GSP) to imports of eligible products from developing countries whose producers are now fully competitive with producers in the industrialized countries.

CMA addressed the GSP issue when renewal legislation was proposed. The CMA position advocated stricter standards for graduation of beneficiary countries from duty-free treatment of imports under GSP, in cases where preferential access to the U.S. market is no longer needed.

A two-tiered system of benefits was included in the renewal of GSP in the Trade and Tariff Act of 1984. Regulations implementing the two-tier system will be issued later this year on completion of the Administration's two-year study to determin which countries should receive which level of benefits. The International Trade Committee will review the regulations to make sure they are adequate.

In dealing with these and other issues affecting trade, the Committee's primary concerns are that the U.S. chemical industry be treated fairly, and that any trade negotiations result in increased export and investment opportunities.

As for the process its lf, CMA member companies, acting through the Trade Committee and then the Board, must first reach consensus on the issues. Then CMA must lobby the Congress, the Administration and the trade negotiators, as appropriate, to make things happen.

CMA lobbying will involve not only the International Trade Committee and OCITA, but also the Government Relations Committee. Depending on the issue, we may even ask that some of you become involved in the lobbying effort. After all, as the headline of an article in the January issue of Dun's Business Month put it, "CEO's Make the Best Lobbyists."

Such efforts can be and have been effective. As an example, CMA members were largely responsible for the insertion into the renewal of the Generalized System of Preferences and into the Caribbean Basin Economic Recovery Act ("CBI") of provisions for the protection of the intellectual property of U.S. companies in countries covered by the legislation.

Timing is also important. For maximum effectiveness, we may need to prom te CMA positions to the Administration before the Administration's position has been announced. Afterwards is often too late to get anything changed.

With that as background, I will review what the Trade Committee accomplished in 1985 and what it plans for 1986.

Bilateral and multilateral trade initiatives were the most important issues taken up by the International Trade Committee in 1985.

The Committee developed, and the Board approved, a CMA position on bilateral free-trade negotiations between the United States and Canada. The CMA position supports the reciprocal elimination of tariffs on chemicals and related products in U.S./Canadian trade, on the condition that the Canadian government eliminate preferential Canadian chemical feedstock and energy policies and restrictions on foreign investment in chemicals.

Incidentally, on Friday, I learned that the Board of Directors of the Canadian Chemical Producers Association (CCPA) approved a position on U.S./Canadian tariff negotiations that is similar to CMA's position -- that tariffs on all chemicals should be on the table for negotiation, not just certain chemical subsectors or groups of products such as CCPA's original list of 26. A copy of CCPA's position is on its way to us.

In January, the Board approved a CMA position supporting publication and implementation of the draft White House policy on the export of hazardous substances.

Th_ draft policy is based on the principle of exchanging information on regulatory activities with other countries rather than on direct controls such as licensing of exports or preshipment notification to the foreign government on each transaction (movement of product).

An ad hoc group consisting of CMA members and representatives of ther trade associations concerned with U.S. policy on the export of hazardous substances was set up and began advocating adoption of the draft policy in meetings with the Administration.

During the 2nd quarter, the United States and Mexico signed a trade agreement in which Mexico agreed to eliminate export subsidies over a period of time, in exchange for being granted the injury test in countervailing duty trade remedy actions brought in the United States.

The two governments also announced they would begin work toward a general framework agreement to improve trade between the two countries. In response to this announcement, the International Trade Committee began to develop a set of principles for bilateral trade between the United States and Mexico.

Negotiations with Mexico are not expected to result in a free-trade agreement in the 1980's, or even in the 1990's. There are just too many differences between the two countries for that to happen.

Throughout the year, the Administration continued to promote the idea of a new Round of Multilateral Trade Negotiations under the G neral Agreement on Tariffs and Trade (GATT) to shore up the present trading system and to develop rules for areas of trade not presently covered by GATT.

By year end, however, final agreement on when the negotiations should begin and on what they should cover, had not yet been reached.

The chemical industry has an important stake in a new Round of Multilateral Trade Negotiations since chemical tariffs are still high enough to have a significant effect on prices in both U.S. and export markets.

In preparation for the new Round, the Trade Committee developed a proposed CMA position based on a statement of principles which address U.S. negotiating policy, dispute settlement procedures and trade issues of particular importance to the chemical industry.

These issues include foreign market access, tariffs, the establishment of a code on foreign investment, and improvement in th protection afforded intellectual property rights. Approval for the proposed position will be sought from the Board tomorrow.

1985 was also a year of much Congressional debate on trade, but no significant trade legislation was enacted. Congressmen introduced a large number of trade bills in frustration over the growing trade deficit and out of concern that the Administration lacks a comprehensive policy to deal with trade problems.

However, the number and complexity of the trade bills proposed, the lack of strong central Congressional leadership on international trade and the House Ways and Means Committee's preoccupation with tax reform prevented passage of broad scope trade legislation during the year.

Possibly in response to the Congressional activity on trade, in September, President Reagan announced a new 20 point Trade Policy Action Plan to pursue U.S. rights and interests in international commerce.

Under the Action Plan, a Strike Force was established to initiate or accelerate trade remedy proceedings against unfair trade practices of other countries. Several trade remedy proceedings were initiated by the Administration by year end.

While 1985 was a year of Congressional debate on trade and Administration preparation for negotiations. 1986 will see more action.

Congress has stated that international trade will be the next major issue it will address, once work on tax policy is out of the way. The House Ways and Means Committee is planning a weekend retreat early in the session to initiate its work on trade problems.

What the result will be is uncertain. As Dexter mentioned, getting a single omnibus trade bill out of the many which have been introduced will be an achievement.

However, Congress will not pass sector-specific legislation restricting imports unless the trade deficit continues to grow unabated and the Strike Force and other elements of the President's Trade Action Plan are considered ineffective.

Rather, any new trade legislation will focus on strengthening the President's authority to initiate action against unfair trade practices of foreign countries, and will encourage the President to take such action.

New trade legislation may also include limitations on the President's discretion in granting import relief in "escape clause" cases once an injury finding has been made. In addition, it may include expanded trade adjustment assistance for workers and assistance for communities whose industries have been hit by international competition.

The Committ e is studying individual provisions of bills that might have an impact on the chemical industry and will develop and recommend CMA positions, as needed, for Board approval.

The United States and other GATT signatory countries will probably begin a new Round of Multilateral Trade Negotiations under GATT. Once the Board approves a CMA position on the new Round, the Trade Committee and the Government Relations Committee will plan a combined effort to promote the CMA position to both the Administration and the Congress.

Th United States and Canada will begin formal negotiations toward a free-trade area agreement between the two countries. The International Trade Committee has begun and will continue to advocate CMA's position during the negotiations.

The Committee will complete its work on principles for bilateral trade negotiations between the United States and Mexico, and will r commend a CMA position for approval by the Board.

Th Committee will also examine proposals for bilateral trade from the Association of Southeast Asian Nations, the Gulf C operation Council and other developing nations and alliances that may seek free-trade agreements with the United States.

The ad hoc group concerned with U.S. policy on the export of hazardous substances will continue to press the Administration to release and implement its draft policy which has been dormant at the White House for the past 3-1/2 years. The group's goal will be to prevent onerous export restrictions and direct controls.

In preparation for these activities, the Committee has decided to reorganize its Task Groups. The Export of Hazardous Substances Task Group has been disbanded because the bulk of its work has been completed. The rest will be carried out by the ad hoc group.

Th Intergovernmental Organizations Task Group has also been disbanded. Instead, the Committee as a whole will, on an as needed basis, address issues previously handled by this Task Group.

In addition, the Import Policy Task Group and Export Policy Task Group will be combined. The need for a new Task Group to deal exclusively with the upcoming Multilateral Trade Negotiations has been identified. Later, a separate task group or ad hoc group to deal with the U.S./Canada bilateral free-trade negotiations may be needed.

The Investment Task Group will be retained to work on investment issues arising out of negotiations on either bilateral talks or the Multilateral Trade Negotiations.

Finally, as Dexter mentioned earlier, the Committee needs your support. We need to know how you feel about the issues, whether or not your company is represented on the Trade Committee or one of its Task Groups.

We believe that international trade is becoming an increasingly important competitive factor for many segments of the U.S. chemical industry and that trade policy should rank high on the industry's agenda.

AJS/lfw

EXHIBIT C

Remarks to CMA's Board of Directors

by Bruce W. Karrh, M.D.

Chairman, Health and Safety Committee

January 27, 1986

I am pleased to present to you today the first annual report of the Health and Safety Committee.

This Committee was formed by Board action in January 1985 to provide the Association a central focus for oversight and coordination of health and safety policy and programs. With public health and safety concerns being the central driving force behind most recent environmental and chemical control laws and regulations, the Health and Safety Committee gives CMA the ability to orchestrate a consistently coordinated advocacy program for public health and safety policy. The Committee's oversight of health and safety policy facilitates the integration of these issues into programs and policy developments of the other committees, resulting in a closer working relationship with the Environmental Management, Communications, Engineering Advisory, Distribution, and State Affairs Committees and the Biomedical and Environmental Special Programs.

The Committee replaced two standing Committees - the Chemical Regulations Advisory Committee (CRAC) and the Occupational Safety and Health Committee (OSH); two Executive Committee Task Groups - the Public Compensation Task Group and the UAREP Work Group; and reduced the number of task groups from 36 to 16. This consolidation was accomplished without disruption of any ongoing activities or significant loss of relationships with outside groups. This has allowed us to address the pressing issues with fewer task groups and fewer people, reducing the number of member company representatives involved, requiring less travel and fewer meetings.

The restructuring of the industry and of many CMA member companies has presented unique challenges in that several of the key Task Group members, and some of the Committee members have had significant job changes, resulting in some people turnover and changes in leadership.

Unlike the predecessor committees or task groups, the current Task Groups no longer have agency-specific responsibility but have functional responsibility based upon the expertise needed by the group to carry out its mission. The functional units are risk analysis, risk management, risk communications, compensation, and external affairs and are shown schematically on page 31 of the report.

The Committee has 6 major goals that were developed at a planning meeting shortly after the Committee was formed. We can pick and choose and appropriate Task Force expertise and resources needed to achieve successful completion of each goal.

This creates a true matrix organization and allows us to focus resources on an issue without redundancy and needless waste of time for company or staff personnel.

The Committee and most of its Task Groups have kept busy all of 1985 because of the diversity and complexity of the issues for which the Committee is responsible, the reorganization necessary to consolidate the ongoing activities without loss of momentum, and the constant demand for action and reaction as a result of the several chemical releases which have occurred at Bhopal, Institute, and elsewhere. We initiated new programs to improve the public's perception of the chemical industry as being responsible. We also have had some less visible but equally necessary programs which are more basic and behind the scenes. These activities usually involve generally working with legislative or regulatory contacts on issues vital to the industry.

The remaining time that I have today will be spent discussing some examples of programs, followed by a brief review of areas which the Committee anticipates will require priority attention in the future.

Following the Bhopal catastrophe, a special task group, chaired by Hamilton Hurst and reporting to the Executive Committee, developed the two new chemical industry programs - Program and the National Chemical Response and Information Center (or NCRIC).

The CAER Program was assigned to the Health and Safety Committee for implementation and follow-up. It has been well received and continues to generate favorable reaction from the media and regulators. Industry reception has also been good. OVer 170 companies have signed up to participate in the CAER Program and have named an executive as the company's CAER coordinator. The CAER coordinator is a critical link between the company's facilities managers and the Program.

The CAER Task Group has held a series of regional workshops at which the Program has been described to more than 1,700 chemical industry managers, and over 1,100 sites have been selected to begin the process for implementing CAER. In addition, community coordinating groups, which usually include emergency response officials, elected officials, and representatives of industry and the public, have been initiated, CAER handbooks have been distributed in the U.S., and other communications materials, including slide/tape shows, videotapes, and brochures, have received wide distribution to facilities managers, emergency response groups, and police and fire fighters. A monthly CAER newsletter is prepared and distributed by the Task Group.

CAER has created a communications network for CMA and member companies to local emergency response groups and to the EPA, Federal Emergency Management Agency (FEMA), other federal agencies, and with other trade associations.

CAER has helped to prominently portray the industry as being concerned with public health and safety and has given us the unique opportunity to build public credibility. We are continuing our efforts to capitalize upon this initiative. Although CAER has been highly successful in showing positive actions that industry is taking, we have some concerns of which you should be aware and that do require attention. Of the 172 companies that have signed up for the CAER Program, 60 have not submitted either of the 2 milestone reports which are now past due. This creates concern that we may not be able to maintain the credibility of the Program. We need your help, through contacts you may have in other companies, to continue to emphasize the importance of the CAER initiative to the current and future credibility of the industry.

Turning now to the less visible programs the Committee and its Task Groups have conducted. These activities are more numerous than the up-front, active, visible programs, such as CAER, and have been equally as effective in supporting CMA's advocacy positions.

In response to public legislative demands following Bhopal, the Occupational Safety and Health Administration (OSHA) developed their Special Emphasis Program, designed to target chemical plants for additional safety and health inspections, irrespective of plant safety performance. These inspections, were initially designed by OSHA to be highly technical, in-depth process hazards reviews, rather than routine OSHA inspections. By working with the Agency, representatives of the Committee were able to help OSHA recognize its lack of expertise to carry out such a program and then assisted in redrafting the program to be one that only serves OSHA's purposes but is consistent with our companies' process safety management reviews.

Also in the occupational safety and health arena, our Committee became aware that a representative of the International Textile Workers Union had chaired a committee which had completely rewritten the Bureau of Labor Statistics Reporting Guidelines for Occupational Illness and Injury (BLS 412). This document, which contained very onerous provisions for all of industry, some of which are detailed at the top of page 18 in your book, had already been approved by the Department of Labor and submitted to the Office of Management and Budget (OMB) for approval to implement. By contacting OMB, we were able to get the document recalled by the Department of Labor and then rewritten to present more balanced guidance on reporting occupational illness and injuries. This has been followed with extensive contacts with BLS, including taking the Commissioner and member of her staff to tour plants in our industry.

Representatives of the Committee have also been very active with EPA in the Toxic Substances Control Act (TSCA) area and have addressed many of the concerns that surfaced during congressional hearings regarding assessment and management of chemicals.

A dialogue group, under the umbrella of the Conservation Foundation, came to agreement on mechanisms for EPA management of new chemicals after Premanufacturing Notification (PMN). This issue is a TSCA deficiency that was highlighted during congressional testimony.

Representatives of the TSCA Reauthorization Task Group provided the leadership to bring the industry, public interest representatives, and state members of the dialogue group to closure on the Program. The Program, now called "New Chemical Follow-Up," has been recommended to EPA for action. The Agency has indicated a willingness to initiate rulemaking to codify the Program, thus defusing this concern in future congressional activities.

Another concern during congressional discussions of TSCA was negotiated testing. The Natural Resources Defense Council (NRDC), CMA, and EPA worked collectively to develop a procedure for negotiating test agreements and developing test rules under Section 4. The new procedure was developed under the principle that test rules and negotiated testing agreements should be equivalent and consent Orders under TSCA Section 4 would be the primary mechanism to satisfy that principle. The Consent Orders, as the test rules, would include requirements to ensure adequate and reliable data, would be enforceable, and would conform to other TSCA regulatory requirements. In addition, the new procedures would include an opportunity for public participating and an expedited schedule for negotiating and rulemaking. After final agreement by the 2 involved parties, EPA will issue the procedures as an interim final rule in February or March 1986. The result of this successful effort has been to lower public pressure to amend TSCA, precluding what could be more onerous testing procedures and timetables. It has also improved working relationships among the 3 parties involved in the negotiations.

The Committee has also, through the Public Compensation Task Group, assisted Government Relations in recommending and supporting various initiatives in the Superfund reauthorization process. These have included recommending public health surveillance as an integral component of Superfund, assisting in preparing lobbying packages opposing Victims' Compensation proposals as these were introduced or discussed, and communicating the results of the UAREP study of possible health effects from hazardous waste sites. The Superfund bills before Congress have no victims' demonstration programs, no federal cause of action, and much better health studies provisions as a result.

Priority issues which are anticipated to require significant attention in the future are the following:

o The Occupational Safety and Health Administration (OSHA) has been relatively inactive in standards development for the last 4 years. Few standards have been developed and those that have been developed have responded to court mandates or intense legislative pressure. Industry has not had to comply with the new regulations, but we have missed opportunities to assist in the development of standards which address workplace needs in a cost-effective way. OSHA will not be able to continue being unresponsive to its legislative mandate, nor is it in industry's best interest to continue to miss significant opportunities to assure cost-effective, practical workplace standards.

Through its National Emphasis Program, OSHA has served notice that our industry, irrespective of our excellent safety record, will be more carefully scrutinized for workplace safety and health. We can anticipate that, in addition t increased standards-setting, chemical plants will be inspected more frequently by OSHA. The Health and Safety Committee is prepared to assist OSHA where it is needed and appropriate, including considering the development of some forward-looking programs to continue to improve the industry's image.

o In the Toxic Substances Control Act (TSCA) area, biotechnology regulation is relatively quiet now but will likely become more active in the future. Although it may become a high visibility issue, we want to keep it separate from other TSCA issues. We will continue to monitor work closely with other trade associations and develop positions as appropriate.

Reauthorization of TSCA has been given a lower priority by Congress for the last year, largely because their calendar was so full of other health-related activities. This will not last, however. We will continue to address the identified concerns and stand ready to become a player in the debate as soon as it is rejoined.

A National Research Council (NRC) report stated that the toxicity data that are available on chemicals in commerce are both very limited and inadequate. Many people are now using this report to show a supposed need for mandatory testing and a minimal test set. Unfortunately, no readily available body of data exists to give a better understanding than is given by the NRC report. The Committee will be evaluating the accuracy of the report and what can be done to improve the data base and refute the report. This is probably a longer term project, however, and not one that lends itself to relatively early resolution.

o Legislative activities will continue, especially in the area of the chemical industry's effect on the health of the public and our work force. Occupational illness had drawn several congressional bills recently and the proponents of such measures have not been successful yet. The Committee is already actively participating in this debate and will continue in order to prevent our industry's operations and products from being unfairly singled out for legislative treatment.

Public compensation activities will continue, especially in the area of product liability, where we are working with the CMA General Counsel's office, and the Government Relations staff to address Senator Danforth's bill. The Superfund reauthorization battle will be rejoined soon and health effects from hazardous waste sites will continue to be one of the emotional leaders in this struggle. The Public Compensation Task Group will continue to play an important role in this area.

The issue of health effects from emissions from operating facilities will come more to the fore. The Environmental Management Committee, assisted by the Health and Safety Committee, has been developing a position on this. Congress and the regulatory agencies will continue, however, to use public health as the driving force for more legislation and regulation addressed at the chemical industry. The Health and Safety Committee will continue to develop health policy for the Association and to assist other committees and departments to respond to issues in the public health arena.

The Health and Safety Committee has been conceived, born, and nurtured during a very trying time for the chemical industry. We believe we he successfully negotiated this traumatic birthing without losing any momentum, with our goals constantly in front of us and our eyes on them.

One of the hallmarks of the Committee's activities has been to try to address issue in there entirety by going to the heart of the problem and looking at how legislators and regulators decide to take action. Using this assessment, we have addressed the issues in depth and proposed long-term fixes, not just treated the obvious symptoms and provided a cosmetic cure and left the roots of the issue unattended. The Committee intends to continue this approach to the health and safety issues which will be affecting the chemical industry in the near and distant future.

I will be glad to answer any questions you may have.

# # # # #

EXHIBIT D

REPORT OF THE
CHEMICAL INDUSTRY COUNCIL OF NEW JERSEY

Request for Individual Company Support and Action

## Objective

To increase the effectiveness of the Chemical Industry Council of New Jersey in representing the chemical industry in New Jersey.

## Background

### A. Chemical Industry Presence in New Jersey

- Approximately 95,000 workers are employed by New Jersey's chemical industry (largest chemical workforce in nation)
- New Jersey's chemical industry is the largest manufacturing industry in the state
- New Jersey companies manufacture chemical products valued at $14.2 billion per year (second in nation)
- New Jersey's industry produces about 12.50% of the nation's chemical output

### B. CIC Organization and Programs

CIC/NJ is comprised of 87 member companies (See Attachment 1) from the chemical, pharmaceutical and allied products industries. The Council employs two professional and two support staff and has a budget of approximately $250,000.

### C. Political Climate

The New Jersey legislature is recognized as one of the most active in the country and is considered anti-industry in the environmental and health and safety areas. The state has been a "leader" on such legislative issues as: State Superfund (including funding and liability standards), worker and community right to know, the Toxic Catastrophe Prevention Act, and Environmental Cleanup Responsibility Act (ECRA).

### D. Follow-Up To September State Chemical Organizations Report

At the September CMA Board of Directors meeting, a special report on the status and programs of the various state chemical organizations was presented by Mr. Bill Wood of Dupont, who chaired a special ad hoc work group established to conduct this report. The report gave an overview of the status and programs of the 18 CIC's and made some generic recommendations for CMA and member company actions to improve the effectiveness of all CIC programs generally. Although reaction to the report was favorable, several of the Association's Officers and Directors requested that more specific requests for action be made to the Board with respect to individual CIC programs where there are particular problems and/or needs. At the October Annual Meeting all of the state chemical organizations, their leaders were asked to identify those areas where they believed CMA's Directors could uniquely assist their program. The CIC/NJ is the first to respond.

## Recommendations

The leadership of the CIC/NJ, acting pursuant to the opportunity made available as a result of the September CMA Board meeting, suggests that the following actions be taken by individual companies at the direction of members of the CMA Board. It is the belief of the CIC/NJ leadership that positive action on these recommendations will result in significantly increased effectiveness on the part of the CIC/NJ. It is also their belief that direct action by members of CMA's Board and other CMA Executive Contacts are essential to accomplish these actions.

A. Company Participation

1. That nominees from CMA member companies to the CIC/NJ's Board and Executive Advisory Committee represent the most senior individuals possible from New Jersey operations.

2. That CMA member companies support, through organizational membership and active committee participation, the CIC/NJ's programs.

B. Increased Public Relations/Communications Assistance

In order to implement the communications program recently developed by the CIC/NJ Public Relations Committee, that the CMA Directors with New Jersey operations provide company public relations professionals to concentrate on communications support for such legislative issues as air toxics and waste site cleanup.

C. Availability of Company Technical Experts

That the Board of Directors be willing to make available, on an as-needed basis, nationally recognized company technical experts in the following areas to assist in legislative and regulatory advocacy. This would augment the excellent work being done by many facility based technical personnel.

1. risk assessment and management
2. process safety
3. air toxics
4. groundwater
5. cleanup standards
6. pesticides regulations

D. Surplus Office Equipment

That companies donate the following surplus (or new) office equipment:

1. postage machine and mailers
2. addressograph
3. letter-quality printer compatible with Digital computers
4. file cabinets/bookcases
5. video recording and camera equipment
6. surplus desk and conference chairs

E. Personal CEO/Senior Executive Commitment

That members of the Board of Directors' with facilities or corporate headquarters in New Jersey commit to appear at CIC/NJ press conferences, deliver speeches, participate in media tours, or attend editorial board visits with major newspapers on the following chemical industry issues in support of the CIC advocacy program:

1. abandoned waste site cleanup funding
2. air toxics
3. groundwater
4. CAER program /HMACs

To further chemical industry success on key issues, it is also requested that CEOs/Senior Executives in New Jersey host private meetings at company facilities with various state legislators.

Action Required

Board endorsement of the thrust of the recommendations and subsequent indications of individual company actions to achieve them.

EXHIBIT E

Remarks to CMA's Board of Directors

By William M. Bellamy, Jr.
Chairman, Tax Policy Committee
January 27, 1986

In 1985, the Tax Policy Committee was very deeply involved in key legislative issues affecting the chemical industry. Responding to the numerous problems raised in both tax reform and Superfund reauthorization legislation, the Committee effectively handled a wide range of tax issues that could increase industry tax costs by more than $6 billion annually.

Since November, 1984, the Tax Policy Committee has focused on the major tax revision issues that are of continuing concern to the chemical industry. These issues were first raised in the context of the Treasury Department's 1984 Tax Reform Proposals and later in the preparation of CMA's testimony on President Reagan's May 28 tax reform program before the House Committee on Ways and Means.

In general, President Reagan's 1985 tax reform program would shift almost $140 billion of the Federal income tax burdens now borne by individuals to the business sector. The President's program would substantially increase the tax burdens of businesses that are capital intensive and that engage in significant international trade.

The specific issues raised in the President's program are set out in detail at Tab 6 of our committee report. For this reason I will not repeat that discussion except to reiterate why federal tax issues are so vitally important to the chemical industry.

First, let me emphasize that for many years the chemical industry has enjoyed one of the most favorable tax positions among U.S. industrial sectors. Both reasonable capital cost recovery periods and the investment tax credit have been available for chemical manufacturing investments for a number of years. To some extent, the principal achievement of the Accelerated Cost Recovery System (ACRS), adopted as part of President Reagan's 1981 tax program, was to provide other industries with tax depreciation comparable to that which the chemical industry enjoyed.

Beyond its favorable depreciation position, the chemical industry is unique among capital intensive industries in the extent to which it can utilize the investment tax credits generated. In 1985, the chemical industry invested more than $14 billion in new plant and equipment, almost 90 percent of those expenditures qualified for the investment tax credit. In current dollars, the investment tax credit reduces the annual tax bill of the U.S. chemical industry by over $1 billion.

Moreover, the chemical industry is far more dependent on international trade than many other capital intensive industries. For example, in 1985 the United States exported chemicals and allied products with a value of $22.2 billion and in that year imported $14.6 billion. With a combined total of approximately $37 billion in

It is clear that CMA has a strong, vital interest in tax reform legislation that reflects a uniquely chemical industry concern. We are organized under a comprehensive work plan to defend the industry's interests in taxation. We are working cooperatively to implement that plan on Capitol Hill. We look forward to positive achievements in the Senate and in any tax legislation that may be enacted this year.

In closing, let me reiterate what I told you at this time last year. The Tax Policy Committee and its members have worked hard this year; the members of the Committee are true tax professionals who have devoted a substantial amount of time and effort to achieving the objectives of the Committee. Again, I am proud to have served as Chairman. While relatively unheralded, CMA's achievements in taxation, both legislative and regulatory, are unsurpassed in their contribution to the well-being of our industry.

We expect to continue this record of positive achievement in 1986.

EXHIBIT F

## TAX REFORM ADVOCACY

Background:

The House of Representatives narrowly passed H.R. 3838, the Ways and Means Committee tax revision legislation, after President Reagan personally intervened in the Congressional debate. Like President Reagan's May 28 tax program, H.R. 3838 would provide a massive shift of Federal income tax burdens now borne by individuals to business taxpayers. Within the business sector, H.R. 3838 would substantially increase the tax burden of businesses that are capital intensive and that engage in significant international trade. It is conservatively estimated that the overall impact of H.R. 3838 as passed by the House would cost the chemical industry more than $3 billion annually.

CMA Program Development and Response:

Since November, 1984, the Tax Policy Committee has focused on the major tax revision issues that are of continuing concern to the chemical industry. These issues were first raised in the context of th Treasury Department's 1984 Tax Reform Proposals and later in preparation of CMA's testimony before the House Committee on Ways and Means. In addition, the Committee prepared several one-page specific legislative issue analyses which the Taxation Task Group of the Government Relations Committee has used extensively in our meetings with Congressional members and staff.

CMA commissioned Price Waterhouse to conduct a study of effective tax rates in the chemical industry. The Price Waterhouse study of 15 companies who are primarily engaged in chemical manufacturing shows that these companies paid an effective tax rate of over 23 percent in 1983, one of the highest effective tax rates paid by any industry group in that year. The Price Waterhouse study has been distributed widely and is being used by CMA in its lobbying efforts on both tax reform and Superfund. The response to the Price Waterhouse study has been very favorable.

In addition, CMA provided a grant to the Institute for Research in the Economics of Taxation (IRET) for a study on the impact of selected tax reform proposals on capital formation in the chemical industry. These provisions include the repeal of the investment tax credit, reduction of depreciation benefits, recapture of accelerated depreciation, and increased alternative minimum tax. In its brief summary, the IRET study concludes that:

> "Major provisions in the President's tax reform proposals and in the tax reform options under consideration by the

Committee on Ways and Means would have devastating effects on the U.S. chemical manufacturing industry. Particularly damaging would be the proposed changes in depreciation rules along with the proposed "excess depreciation recapture" and the alternative minimum taxes. Despite the proposed reductions in statutory tax rates, these changes would raise the effective tax rates to which chemical manufacturing companies are exposed and would, as a result, materially slow the growth in the industry's production facilities and employment, cost the industry's employees billions of dollars in lost real wages, and reduce the industry's output substantially below levels that would otherwise prevail. The competitive position of U.S. chemical manufacturers in both domestic and foreign markets would be significantly eroded."

On January 6, the Senate Finance Committee announced that it will hold hearings on tax reform beginning January 29 emphasizing the consequences of H.R. 3838 for international trade of U.S. manufacturers. In these hearings, CMA is requesting the opportunity to testify.

The Tax Policy Committee and the Government Relations Committee's Taxation Task Group have developed a comprehensive legislative strategy and work plan on tax reform legislation. The Taxation Task Group has held regular meetings to implement this work plan, to share intelligence on tax legislation, and to coordinate CMA activities with allied trade associations. CMA has now been joined by other major trade associations in the opposition to key tax revision proposals in H.R. 3838 affecting capital formation and international activities. We anticipate that there will be much greater concern in the Senate over the tax impact on those policies than was shown in the House.

ACTION REQUIRED: For Information Only

CMA
BD-1/27/86

Attachment

1985-1986

TAX LEGISLATION WORK PLAN

PROGRAM ELEMENTS: JANUARY 13, 1986

I. POLICY REVIEW AND ISSUE EVALUATION

A. Review of Treasury I Reform Plan (completed May 1985)

B. Analysis of Treasury II Tax Reform Proposals

1. Analysis (completed July 31, 1985)

2. CMA Statement on Tax Reform for House Ways and Means (completed July 30, 1985)

C. Review of H.R. 3838, House-passed Tax Revision Legislation

1. Analysis (under way)

2. Revision of CMA Statement to Reflect Provisions of H.R. 3838 (under way)

D. Selection of Priority Issues by Tax Policy Committee (initially completed August 13, 1985; reassessment in light of H.R. 3838 under way)

1. CEO visits to ranking members of House Committee on Ways and Means to be scheduled after completion of House-Senate Conference on Superfund Reauthorization.

2. CMA Request to Testify in Senate Finance Committee Hearing on H.R. 3838 (under way)

II. OUTSIDE STUDIES

A. Price-Waterhouse Study on Effective Tax Rates in the Chemical Industry.

1. Completed (approved August 13, 1985)

2. Transmitted to: Joint Committee on Taxation<br>House Committee on Ways and Means<br>Senate Committee on Finance<br>Treasury Department (Assistant Secretary for Tax Policy)

3. Article in <u>Tax Notes</u> (published August 19, 1985)

4. Continued use in Congressional Tax and Superfund advocacy

B. IRET Study on Impact on Chemical Industry of Proposed Changes in Tax Treatment of Capital-intensive Investments (completed and approved December 1, 1985)

III. ADVOCACY DOCUMENTS

A. Basic CMA statement on tax reform delivered to House Ways and Means (July 30, 1985)

B. Summary CMA position on tax reform (August 15, 1985)

C. Preparation of Separate Advocacy Documents

a. General Statement (completed July 30, 1985)

b. Brief Statements (completed August 23, 1985)

c. Modification to reflect House passage of H.R. 3838 (under way)

Specific Issues (in order of priority):

1. Capital Cost Recovery System - Investment Tax Credit

2. Foreign Tax Credit - Per Country Limitation

3. Minimum Tax (Administration and H.R. 3838 alternative)

4. Source Rule For Sales

5. Allocation of Expenses (including Interest)

6. Research and Development Expenses

7. Section 936 Possessions Credit (Puerto Rico)

IV. LEGISLATIVE CONTACTS

A. In General

1. Legislative Contact Teams - 3 member teams consisting of representatives from Tax Policy Committee, GRC Taxation Task Group, and CMA. (completed, September 13, 1985)

2. Initial Contacts - Contact Teams to focus on results of Price Waterhouse effective tax rates study, to deliver CMA advocacy papers, to respond to questions on specific issues, and to schedule return visits (completed October 1, 1985)

3. Task Group Meetings - Washington representatives of member companies hold weekly briefings on tax legislation. In these meetings CMA coordinates the tax legislative activity of the Washington representatives through specific assignments, review of legislative intelligence and detailed follow-through.

B. House Advocacy Assignments

1. Committee on Ways and Means

a. CMA Statement on Tax Reform - Presented by Dexter F. Baker, President, Air Products and Chemicals, Inc. (July 30, 1985)

b. Meetings with Professional Staff (continuing)

c. Meetings with Committee Staff Leaders (continuing)

d. Meetings with Individual Members

i. Specific Assignments for initial contacts (completed September 13, 1985)

ii. CEO visits to ranking members of House Committee on Ways and Means to be scheduled after completion of House-Senate Conference on Superfund Reauthorization.

2. Leadership

a. Meetings with House Democratic Leadership (completed September 17, 1985)

b. Meetings with House Republican Leadership (under way)

C. Senate

1. Senate Finance Committee

a. CMA Request to Testify in Hearings on H.R. 3838 (under way)

b. Staff Leadership (continuing)

c. Tax Professionals (continuing)

d. Individual Senators - Specific assignments of Washington representatives (under way)

2. Senate leadership - Specific assignments to be made after

CMA testimony on H.R. 3838.

V. Administration Contacts

A. Initial comments to Treasury by CMA Executive Delegation. Comments from member company CEO's on impact of Treasury II tax plan with respect to capital formation and foreign tax issues as requested in Executive letter from R.A. Roland.

B. Courtesy comments to Assistant Secretary Tax Policy

1. Price Waterhouse Study

2. IRET Study

C. General reservation on opposition mail until after House-Senate conference on Superfund reauthorization legislation.

VI. Coordination of Activities with Allied Trade Associations

A. Identification of allied interest groups (completed September 9, 1985)

B. Specific Assignments of task group members to attend/monitor allied trade group meetings (completed, September 13, 1985)

C. Transmittal of CMA Tax Policy position to allied trade associations

1. Original statement (September, 1985)

2. Revised statement to reflect provisions of H.R. 3838 (by February 6, 1986)

VII.. Press:
Response to inquiries. More direct activities to be considered after House-Senate Conference on Superfund Reauthorization is completed.

CONTACTS:

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Director, Government Relations
American Cyanamid Company
Chairman, Taxation Task Group
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William M. Bellamy, Jr.
Chief Tax Counsel
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CMA Staff Executive
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EXHIBIT G

## TABLE OF CONTENTS

### REPORT OF THE PRESIDENT
### Association Issues and Program Report



CMA
BD-1/27/86

REPORT OF THE PRESIDENT

* * *

ASSOCIATION PROGRAM AND ISSUE REPORT

# I. ADVOCACY OVERVIEW

## A. Congress

The first session of the 99th Congress was an active one for both the House and Senate on economic issues, but they did not reauthorize any of the pending environmental laws.

Congress adopted the Gramm-Rudman-Hollings bill, a law which requires a balanced budget by fiscal 1991 and requires Presidential sequestration orders across the board on outlays and budget authority in order to achieve intermediate deficit targets each year, if Congress and the President do not meet deficit targets through legislative action each year.

The House passed a comprehensive tax reform bill. The bill reduces tax rates for individuals; increases the personal exemption and the standard deduction for individuals; reduces real estate tax shelters; repeals the investment tax credit; reduces five corporate brackets to three and reduces the top corporate rate from 46 to 36 percent; reduces the deductibility of business entertainment expenses to 80 percent of the current level; establishes a broad-based 25 percent minimum tax for both corporations and individuals and establishes less favorable depreciation schedules.

Two bills in conference would reauthorize the Safe Drinking Water Act through 1989; and authorize a total of $12 billion for sewage construction grants and $9 billion for water pollution control through FY 1990.

Bills passed in differing forms by both the House and Senate and now awaiting conference would reauthorize the Superfund Act. Many controversial issues remain to be resolved including the funding level, funding mechanism and program issues.

Congress passed the Textile and Apparel Trade Enforcement Act and sent it to the President. It was vetoed on December 17, hours before it would have become law without his signature. The bill was designed to restrict and regulate textile imports, yet maintain a level of foreign imports high enough to allow consumer choice.

The 1986 Congressional session is very unpredicatable at this time because the Gramm-Rudman-Hollings deficit reduction law presents Congress with many new challenges. Add to this the usual uncertainties of an election year and 1986 will add up to another difficult year for the Congress.

B. Federal Regulatory Agencies

Environmental Protection Agency (EPA). The agency is moving rapidly to implement legislation under the Clean Air Act, the Clean Water Act, the Toxic Substances Control Act, the Safe Drinking Water Act (SDWA) and the Research Conservation and Recovery Act (RCRA). Regulatory activities under the SDWA are especially vigorous, and RCRA implementation during the next quarter will be dynamic.

Food and Drug Administration (FDA). The recent decision by FDA to classify the risk of cancer from methylene chloride exposure as de minimis at a risk of one in a million is a major step away from the zero risk concept. The decision is sure to be challenged, but it dramatizes a growing awareness among federal agency administrators that adhering to zero risk, even for carcinogens in food, is an unacceptable public policy. It also adds another case to a growing set that endorses a lifetime risk of one in a million as a future standard.

OSHA Special Chemical Industry Program. On November 4, 1985, OSHA established a pilot National Emphasis Program for programmed inspections of chemical industry establishments. The program, which reflects virtually all of CMA's comments of August 29, appears to represent a sound approach. During the first year of the pilot program, eighty plant programs will be inspected by qualified compliance officers who will examine process safety and emergency response procedures.

Occupational Safety & Health Administration (OSHA). OSHA is also completing its inspection check sheet for evaluating industry's worker education and training programs. This program will become effective in May 1986.

Federal Energy Regulatory Commission (FERC). The Commission has proposed a natural gas block billing rule that could cost the chemical industry $600 million a year if not modified. (See II.L.2)

U.S. Department of Energy (DOE). The Secretary of Energy, John Herrington, announced that DOE is developing options for natural gas legislation that will serve as the basis for a new Administration bill for deregulation. He indicated that an Administration bill is preferable to endorsing any of the several gas bills pending, and their bill should be ready for Congress in January 1986.

The DOE also plans to send National Energy Policy Plan V to Congress in January. The plans are required every two years as updates of federal energy policies.

## C. States

Advocacy at any level of government depends on early warning, rapid response and early involvement. Modern technology, ie. the computer, has given us the opportunity to greatly enhance our early participation in the political process. CMA State Affairs Division is now implementing our new two-way computer communication system called CMA/LINC. Currently there are 20 member companies and two state chemical industry councils actively participating.

It should be noted, however, that many of the state CICs will need additional funding for their effective participa tion in this vital communications network. Member companies are strongly encouraged to provide this needed support.

The state advocacy program, including the new CMA/LINC computer network, will be heavily involved in 1986 in the critical environmental issues identified by the National Conference of State Legislators, namely, groundwater and the disposal of hazardous wastes. Of course, other issues will continue to be of major concern such as state superfunds which are currently under detailed study by the CMA State Hazardous Waste/Groundwater Task Group.

State right-to-know action continues to grow and even expand in scope. New Jersey's "Toxic Catastrophe Prevention Act", signed in early January, not only requires the reporting of information concerning industry's operations but also allows the state to order risk reduction measures or even order the cessation of operations. Toxic air will become even more important at the state level as Federal EPA pushes this issue along with groundwater to the states. CMA's State Affairs program has been an active participant in CMA's development of an air toxics policy.

A new, but rapidly growing issue at the state and federal level is liability insurance and the related issue of tort reform. CMA's State Affairs program is actively participating in a large coalition of interested trade associations and individual companies under the auspices of the American Legislative Exchange Council. Nearly all states are involved in some aspect of this issue. Of course, hazardous material transportation, public compensation and chronic health issues will continue to be active issues as well in 1986.

## D. Media

The closing months of 1985 saw concentrated media attention on the subject of air toxics. The first anniversary of Bhopal and related activities of environmental groups, the EPA hazardous chemicals listing and, in depth media analysis, made headlines at the same time.

Reauthorization of Superfund probably gained more media attention than expected, primarily because of its intrusion into the budget reconciliation process. Most of this attention was in the form of news rather than editorial coverage.

1985 - as might have been anticipated following the December 1984 Bhopal accident - became a year of intense environmental inquiry. Initial interest was in the potential for acute incidents in the United States. Stories focused on questions of failure to regulate or inadequacy of existing law. For the media, the Institute, W.V. release answered the question "can it happen here?" Attention to "acute" threats accelerated in their Bhopal retrospective. Media from chemical states such as Texas, Louisiana, West Virginia, Illinois, Ohio and Pennsylvania were concerned primarily about this issue -- with questions about training, process safety and design. New Jersey attention included "chronic" issues as well as "acute," raising the idea of affect on communities, as opposed to workers.

For the most part our activities relating to Superfund were proactive. Bhopal/air toxics activities were responsive.

The national media appeared to understand the chemical industry rationale for a broad based tax and generally referred to that position in their coverage. In addition, those reporters who have covered the story over a period of time agree with the industry contention that a waste generation tax bears little relationship to hazardous waste sites.

E. Courts and Agency Decisions

Federal Maritime Commission. A victory! CMA, through briefs and affidavits, convinced an Administrative Law Judge to decide that two chemical parcel tankers were "tramps" rather than "ocean common carriers" and thus exempt from antitrust laws. While this decision is likely to be appealed to the entire Commission, it may serve as a precedent to prevent chemical parcel tankers from obtaining antitrust exemptions for price setting and market allocation agreements. Those activities could cost the chemical industry 200 million dollars per year in increased rates on bulk chemical exports and imports.

Federal Energy Regulatory Commission. Another victory! The Federal Energy Regulatory Commission (FERC) has approved a rule on natural gas transportation that adopts many CMA recommendations. The rule (Order No. 436) is intended to promote competition in the natural gas market by facilitating the movement of gas from the producer to the user. When fully implemented by the pipelines, there will be a substantial cost savings to industrial users of gas. The annual savings for CMA members is estimated at $300 to $750 million.

In addition, CMA and its coalition partners successfully argued against inclusion of a new block billing mechanism in the final rule. CMA testified that block billing would significantly raise the price of natural gas for industrial consumers. A study submitted by CMA indicated that annual cost to the chemical industry would be approximately $660 million. FERC's action is a major victory for CMA and other industrial users. However, the Commission is continuing its assessment of the advantages and disadvantages of block billing and further action is still possible.

## II. ISSUES AND PROGRAM STATUS

### A. Hazardous Waste (Superfund)

#### 1. Congressional Developments and Response

Senate Activity

The Senate passed H.R. 2005 on September 26, the Superfund reauthorization for five years. The legislation will increase nearly fivefold the money available to clean up abandoned hazardous waste sites by freezing the feedstock tax and imposing a broad-based excise tax on all manufacturers.

Senator Robert Packwood (R-OR) and other members of the Finance Committee put the Superfund funding package in the budget reconciliation bill which passed the Senate. Senator Jesse Helms (R-NC) offered an amendment to delete the Superfund funding from the budget reconciliation legislation, but he lost 66 to 32. The Senate, once again, strongly confirmed its support for a broad-based tax and freezing feedstock to finance the Superfund cleanup program.

House Activity

The House voted 391-33 on Dec. 10 to reauthorize the Superfund cleanup program by significantly increasing the tax of chemical feedstocks and oil. The House narrowly defeated the Ways & Means Committee's broad-based tax which was opposed by President Reagan, most of the unions, the environmentalists, and a broad coalition of manufacturers. With this support, the House passed Representatives Thomas Downey's (D-NY) and Bill Frenzel's (R-MN) amendment, 220-206, to finance the bulk of the $10.3 billion Superfund from a $2 billion tax on chemical feedstocks, $3.1 billion from a crude oil tax, $2 billion from a waste tax, $1.6 billion from general revenues and smaller amounts from other sources.

The program provisions were a compromise of the Energy & Commerce and Public Works & Transportation Committees proposals. They include cleanup schedules, cleanup standards, citizen suits, settlement procedures and right-to-know provisions including a requirement that certain companies report annually their total releases of chemicals that can cause chronic health hazards. The House defeated an amendment to create a federal cause of action. Thus, neither the House or Senate bill contains victims compensation provisions, which was a key CMA priority in Superfund reauthorization.

The House and Senate conference on Superfund reauthorization could begin in late January, after the conferees have been appointed. But major concerns need to be resolved on the funding level, mechanism and program issues. One of the major program issues to be resolved in conference is how much discretion to give EPA. The House bill spells out in great detail what EPA should do and when to do it, where the Senate bill provides more general guidance.

The Superfund Task Group of CMA's Government Relations Committee will now focus its attention on the House and Senate conferees. A strategy will be developed and agressively implemented on the tax and program issues.

Before Congress adjourned for the year on December 20, they made one last effort to provide funding for the Superfund program. On December 13 the House and Senate conference on budget reconciliation began to consider the Superfund funding issues. They agreed on a compromise of the Senate funding mechanism (freeze feedstocks and a broad-based tax) and the House funding level of $10 billion over five years. But when the conference report went back to the House for approval, Represenative Dan Rostenkowski (D-IL) successfully moved to strike the Superfund provisions because of the broad-based tax. Until Congress ajourned December 20 without passing budget reconciliation, the House continued to delete Superfund and the Senate kept insisting Superfund be included. This deadlock over the different funding approaches approved by the House and Senate signals how difficult the funding issue will be to resolve in 1986.

3. Regulatory Developments and Response

National Priority List Comments. The EMC's Superfund Implementation Task Group submitted comments to EPA on proposed amendments to the National Priority List. The primary CMA concern was EPA's retaining flexibility in requiring cleanups under Superfund or RCRA. We indicated that mandating that all cleanups be governed by one statute may be unduly rigid and, in fact, slow down the cleanup process.

4. Policy Development, Analytical and Program Activities

National Contingency Plan Litigation. The EMC authorized CMA to intervene in litigation challenging EPA's revisions to the National Contingency Plan. CMA's concerns are: (1) EPA including technology standards in addition to health-based standards for purposes of determining what are relevant cleanup standards; (2) EPA establishing cost-effectiveness criteria inconsistent with the statute; and (3) EPA incorporating other regulatory Agency standards for purposes of defining the relevant cleanup standards that go beyond the statute's requirements.

5. Communications

Nearly all of the News Service Division's efforts and resources were dedicated to Superfund during the October to December period. Briefings on Superfund issues for key media continued during the period, and were concentrated on Washington correspondents for the following newspapers and news organizations: Associated Press, Dow Jones News Service, Charleston (W.V.) Daily Mail, Ottaway News Service, Detroit (Mich.) Free Press, Scripps-Howard News Services, USA Today, Wall Street Journal, Chicago Tribune, Chicago Sun-Times, Cong--ssional Quarterly, Newhouse News Service, and Gannett News Service.

During the last eight months of 1985, CMA officers, member-company representatives and association staff have participated in 133 briefings on Superfund issues in more than 70 cities.

Television and radio activity increased during the period on Superfund issues, especially during November and December. CMA made extensive use of its "alternative TV network," providing specially targeted newsfeeds to key Congressional districts. Subjects covered in the newsfeeds included the economic impact of Downey Superfund funding proposal on chemical producers; propriety of Ways and Means Committee - passed version of Superfund funding; and identification of industries which have contributed waste to Superfund sites - that pay no Superfund taxes. Targeted TV newsfeeds were distributed in nearly 40 key Congressional districts. Usage, depending on the subject, ran between 26% and 75%. Market reach of the targeted newsfeeds ranged from 1.9 million to 4.5 million people.

Radio newsfeeds were also produced on similar Superfund issues during the period. Usage averaged nearly 60%.

The department also assisted in preparation of written materials for the Government Relations Staff for use during House Superfund floor debates.

Immediately prior to the House vote on Superfund the department prepared and placed a full page advertisement in the Washington Post urging members to vote NO on the Downey Amendment.

EPA is distributing "Cleaning Up" (CMA's waste site cleanup film) to its regional offices for use in community relations programs. The film has been distributed to more than 60 television stations. More than 110 prints have been sold to CMA member companies for use in community and employee relations programs. CMA's Community Information Task Group is launching a film distribution plan that includes CIC involvement, personal television contacts, publicity, national platforms for screening and promoting the film.

B. Hazardous Waste Management (RCRA)

1. Regulatory Developments and Response

Land Ban Prohibitions. In early January, EPA will propose its first set of rules to prohibit the disposal of many hazardous wastes in or on the ground. Land disposal will be prohibited unless the level of of the hazardous constituents in the waste is less than the "health based standard" EPA will establish for over 350 hazardous constituents, or the "best available technology" is used to treat the waste to reduce the hazards. The RCRA Regulations Task Group will prepare comments on this important and lengthy new rule.

Inorganic Leaching Model. On November 27, 1985, EPA issued a final rule adopting a model that predicts the leaching, migration and persistence of inorganic wastes in the land. EPA will use the model to determine which inorganic materials should be listed/delisted as hazardous wastes. The model, with some variations, will also be used to determine which inorganic wastes will be banned from land disposal. The RCRA Regulations Task Group commented on the proposed rule, and is reviewing the final rule to determine whether to challenge it in court.

Organic Leaching Model. On November 27, 1985, EPA proposed a model for predicting the leaching, migration, and persistence or organic wastes. The methodology and intended use of the organic model is similar to the inorganic model discussed above. The RCRA regulations Task Group is preparing comments for filing on January 13, 1985.

Burning of Hazardous Waste in Boilers. CMA will participate in a Keystone Workshop on January 28, 1985 regarding the issue of burning hazardous waste in boilers. A consensus may emerge that could form the basis of a rule EPA is developing to regulate this activity. The Boiler Work Group has prepared a regulatory proposal that CMA will present at the

Workshop. The proposal divides hazardous waste burning into three categories with greater regulation for fuel that contains the largest percentage of hazardous waste.

2. Policy Development, Analytical and Program Activities

1984 Hazardous Waste Survey. The EMC's RCRA Regulations Task Group has published the results of the 1984 Hazardous Waste Survey of member companies. The 1984 results show a continuing trend of decreased reliance on landfills for disposal of hazardous waste, but an increased reliance on incinerators for disposal. The survey trend analysis compares disposal practices for the years 1981-1984.

1985 Hazardous Waste Survey. The EMC has authorized the RCRA Regulations Task Group to conduct a 1985 Hazardous Waste Survey of member companies. The survey to be completed later in 1986, will provide CMA with the most recent data on the waste disposal practices of the member companies. The raw data and trends analyses are valuable advocacy tools for legislative and regulatory matters concerning hazardous waste management.

RCRA Codification Rule Litigation. The EMC authorized CMA to intervene in litigation challenging EPA's regulations designed to codify many of the new requirements of the Hazardous and Solid Waste Amendments of 1984. These regulations cover the bulk liquid ban, minimum technological requirements, the continuing releases provision, the interim small quantity generator provisions, the preconstruction ban, the labelling requirements for hazardous waste fuels, the recordkeeping requirements for hazardous waste exports, the waste minimize provisions, and collection systems and groundwater monitoring provisions. Although these requirements were supposed to merely codify statutory language, the final regulations either added provisions and/or deleted certain limiting factors.

Supreme Court Hazardous Waste Siting Litigation. The EMC has authorized CMA filing an amicus brief in the U.S. Supreme Court's consideration of a local ordinance banning all permanent on-site disposal facilities within the City of Fairmont, W. Va. The questions to be addressed by the Court are whether RCRA preempts a local ordinance's prohibition of all disposal of hazardous waste pursuant to a federal permit and can a locality prohibit all hazardous waste disposal within its borders. The resolution of this case will have a long-term impact on the way industry plans/manages its wastes.

Burning in Boilers Position Paper. The EMC approved a revised position paper concerning regulation of the burning of hazardous wastes in industrial boilers. The revisions reflect the 1984 Hazardous and Solid Waste Amendments. The revised position paper will be used to respond to EPA's anticipated proposed regulation of the burning of hazardous wastes in industrial boilers. In addition, the position paper will be used in a CMA sponsored Keystone Conference on burning hazardous wastes in industrial boilers. Industry, government, and environmental representatives have been invited to participate in this consensus development conference.

3. Underground Injection Control Project

EPA Regulatory Issues. The Underground Injection Control Task Group developed a list of regulatory issues EPA needs to resolve as part of the regulatory development process for land disposal ban decisions of hazardous wastes disposed by underground injection. The resolution of many of these issues may have a direct impact on whether or not certain wastes will ultimately be allowed to be disposed by underground injection. The questions address technical, legal, and policy issues.

UIPC Sponsored Regulatory Negotiations. CMA's Underground Injection Control Group has been invited to participate in a Underground Injection Practices Council (UIPC) exploratory meeting to determine if the RCRA land disposal ban applicable to underground injection of hazardous wastes issue is appropriate for regulatory negotiations. The initial meeting is to determine if enough regulatory issues exist that are amenable to meaningful and successful negotiations. A fundamental question to be resolved at the exploratory meeting is whether all concerned parties are willing to participate in a negotiation activity.

4. Litigation and Related Activities

Definition of Solid Waste. CMA is challenging in the Court of Appeals EPA's January 5, 1985 rule defining solid waste to include materials resulting from a manufacturing process or used in a manufacturing process that are reclaimed and reused in a "closed-loop" manner in the same manufacturing process. This rule would subject to the panoply of RCRA regulation an estimated 3000 to 5000 tanks used by CMA members in their manufacturing operations. As part of the litigation, CMA has convinced EPA to propose an amendment to its rules that would exclude this "closed-loop" reclamation from EPA jurisdiction. EPA proposed such an amendment on December 16, 1985 and CMA will file comments supporting the amendment.

Codification Rule/Corrective Action. CMA has intervened in a challenge to EPA's July 15, 1985 rule codifying the 1984 RCRA Amendments. The challenge involves, among other issues, the question of to what extent must owners of waste facilities repair the environment damaged by prior releases. CMA is monitoring the litigation and may participate in settlement negotiations with EPA aimed at clarifying the rule.

C. Air

1. Congressional Developments and Response

House Activity. The House-passed Superfund legislation contains a community right-to-know amendment sponsored by Rep. Bob Edgar (D-PA), including air emissions reporting requirements. (See further description under "Right-to-Know".) The Edgar amendment - even if altered in conference - will affect future air toxics legislation.

Currently the only full-scale air toxics bill is H.R. 2576, which Rep. Henry Waxman (D-CA) introduced. Since Waxman held hearings on H.R. 2576 last June, he has been preoccupied with Superfund, and other issues. In fact Waxman actively supported and worked for the Edgar amendment.

Early in 1986, Waxman reportedly plans to resume efforts toward full scale air toxics legislation. This could mean additional hearings, changes in H.R. 2576, or new proposals. In anticipation, Rep. John Dingell (D-MI) continues to collect information and data from EPA and other sources regarding air emissions and control.

CMA will address the Edgar amendment in the House and Senate conference on Superfund, and is preparing for additional air toxics activity in 1986.

Senate Activity. The Senate-passed Superfund legislation also contains community right-to-know emission reporting requirements including air emissions. CMA also will address this provision, sponsored by Senator Frank Lautenberg (D-NJ), in the conference on Superfund.

There have been no Senate hearings or full scale air toxics proposals; however, Senate hearings on acid rain began in December 1985, and air toxics may be the next topic in the Environment & Public Works Committee.

2. Regulatory Developments and Response

Chromium Comments. The EMC's Process Emission Regulations Task Group submitted comments to EPA on the Agency's notice of intent to list chromium and hexavalent chromium as hazardous air pollutants. CMA's comments focused on the technical adequacy of exposure assessments conducted by EPA and the use of chromium in cooling towers and the need for more technical analyses on whether the chromium emissions result in ambient problems.

Emissions Trading Policy Petition. CMA, in conjunction with other industry groups, has petitioned EPA to publish an emissions trading policy more in line with the original intent negotiated between EPA and parties challenging an earlier EPA air emissions policy. The most recent draft of an air emissions trading policy appeared to fundamentally change course and undercut the utility of an emissions trading policy. The goal of the industry petition is to persuade EPA to publish an emissions trading policy that facilitates industry growth and protects the environment.

Secondary Emissions Comments. The EMC's Process Emission Regulations Task Group submitted comments to EPA on a technical report on developing a program of air regulations at hazardous waste treatment, storage and disposal facilities. CMA's comments focused on technical aspects of estimating air emissions from hazardous waste disposal sites. The comments are designed to assist in developing better and more accurate predictive models for estimating air emissions from the units comprising waste disposal facilities.

3. Policy Development, Analytical and Program Activities

Recommended Air Toxics Legislative Principles. The EMC has approved recommended principles for addressing federal and state air toxics legislation. The recommended principles address both routine emissions and accidental emissions. The principles, if adopted by the Board of Directors, will be used in developing CMA's air toxics legislative advocacy programs at the federal and state level.

Proposed Air Toxics Control Policy. The EMC has assisted members of the Executive Committee in developing a proposed air toxics control policy. As part of this activity, EMC members drafted initial versions of the air toxics control policy, and identified various options on how such a policy could be implemented by CMA member companies. If approved by CMA's Board of Directors, the EMC plans a significant education and technical program to assist the member companies in implementing the air toxics control policy.

4. Litigation and Related Activities

Benzene Litigation. CMA has submitted its brief in a court suit brought by the Natural Resources Defense Council, Inc. (NRDC) challenging EPA's emission standards for benzene under section 112 of the Clean Air Act. The case revolves around the "ample margin of safety" test of section 112. NRDC contends that EPA is required to set "zero-risk, zero emission" standards for all carcinogens. CMA and the American Petroleum Institute, who also is a party, are arguing in support of EPA's position that the Agency is authorized to take cost and feasibility into account in setting emission standards.

Radionuclides Litigation. On January 13, CMA filed its brief in a case involving emission standards for radionuclides. This case, which raises issues similar to those in the benzene litigation, focuses on the "ample margin of safety" test of Section 112 of the Clean Air Act. NRDC again argues that EPA must set "zero-risk, zero emission" standards for all carcinogens. CMA counters that EPA has flexibility under the statute to consider cost and feasibility in setting emission standards.

Vinyl Chloride Litigation. CMA previously intervened in a court suit brought by NRDC challenging EPA's emission standards for vinyl chloride. This case probably will be the first to decide the meaning of the "ample margin of safety" test in section 112 of the Clean Air Act. All briefs have been filed and a decision is expected this spring.

5. Communications

The department prepared a summary and question and answer document on the Dingell Survey.

D. Surface Water

1. Congressional Developments and Response

Conference on Clean Water Act Amendments. Conference on the Senate and House versions of S. 1128 may occur before conference on Superfund. The timing depends upon resolution of the controversy over construction grants funding, which is not an issue of direct concern to CMA.

CMA's five major issues, on which the Clean Water Act Task Group has begun distributing technical papers and discussing improvements needed by the conferees, are the following:

- Compliance Deadlines - CMA supports the House version applying a 3 1/2 years deadline.
- Penalties - CMA supports the House version providing for administrative penalty hearing (APA) procedures; fairer size of maximum administrative civil penalties; citizen suit preclusion relative to administrative penalties; fairer size of maximum judicial civil penalties; and, affirmative defense protection against criminal penalties.
- Fundamentally Different Factors (FDF) Variances - CMA supports the House version allowing use of FDF compared to the almost totally restrictive Senate version.
- Post-Best Available Technology (BAT) Requirements - CMA prefers the Senate version providing more time and state responsibility.
- Storm Water Permits - CMA supports the House version which better targets the types of discharges that should be permitted and provides for a better regulatory program.

2. Regulatory Developments and Response

OCPSF Effluent Guidelines Comments. EMC's Effluent Guidelines Task Group developed comprehensive comments on EPA's proposed revisions to the organic chemicals, plastics, and synthetic fibers (OCPSF) effluent guidelines. CMA's comments highlight technical problems in EPA's regulatory proposals and offer constructive alternatives to achieve the same environmental results. CMA's comments concentrate on EPA's failure to reflect the high levels of waste water treatment already in existence and the enormous additional costs that might be imposed with minimal environmental benefit to meet the proposed limits. Representatives of CMA and its member companies met with EPA's Assistant Administrator for Water and discussed CMA's concern with the proposed revisions to the OCPSF effluent guidelines.

Stormwater Permit Regulations Comments. EMC's Water Permits Task Group submitted comments to EPA on proposed revisions to the NPDES stormwater regulations. CMA comments indicate general support for EPA's "general permit" approach, but offers several modifications to remedy some industry concerns. CMA representatives discussed our recommedations with EPA staff during the comment period. Generally, the proposed revisions, if modified in the final regulations, will be a reasonable stormwater regulatory requirement.

Priority Pollutant Listing/Delisting Comments. The EMC's Water Quality Criteria and Standards Task Group, in conjunction with the Phthalate Esters Panel, has developed comments on EPA's report establishing a ranking list of Section 307(a) priority pollutants. The report offers industry an opportunity to delist certain chemicals from the Section 307(a) priority list and subsequent regulation under various Clean Water Act provisions. The Phthalate Esters Panel has been actively involved in this project because the EPA draft technical publication concerning phthalate esters expressly allowed a delisting procedure.

EPA Biomonitoring Studies Comments. EMC's Water Quality Criteria and Standards Task Group submitted comments to EPA on a recent biomonitoring study involving the Kanawah River. CMA's comments addressed several scientific and technical deficiencies with the study and offered recommendations on how to cure several of them. The biomonitoring activity is of special concern to many member companies since EPA regional offices are incorporating biomonitoring requirements as part of second round NPDES permits.

3. Litigation and Related Legal Activities

Stormwater Litigation. On August 29, EPA decided to make a major change in the deadline for submitting stormwater permit applications under the Clean Water Act. The original date had been April 26, 1985. However, CMA and other industry groups mounted a major effort to convince EPA that the deadline was unreasonable. CMA member companies participated in the effort by contacting EPA and documenting the practical problems posed by the deadline. On August 29, EPA agreed with our position, changing the deadline to December 31, 1986 for industrial (Group I) discharges and June 30, 1987 for other (Group II) discharges. However, the Natural Resources Defense Council (NRDC) has now filed suit challenging the deadline extension. Since the extension is very important to industry and rests substantially upon concerns brought to EPA's attention by industry, CMA and the other trade associations that have been involved with the stormwater issue have decided to intervene in NRDC's case, in support of EPA . We will jointly present the argument that EPA was justified in extending the deadline in order to remedy serious practical defects in the original stormwater regulations.

Pesticides Effluent Guidelines Litigation. On October 4, EPA issued effluent guidelines and standards under the Clean Water Act for the pesticides industry. Because of the strong connections between the pesticides and organic chemicals industries, several generic regulatory issues addressed in the pesticides rules are also important in the ongoing rulemaking for the organic chemicals, plastics and synthetic fibers (OCPSF) industry. CMA has therefore decided to participate in litigation on the pesticide regulations, since any judicial decision on those questions in the pesticide context will surely serve as precedent for EPA's regulation of OCPSF plants. In the litigation, CMA will be working closely with other affected industry groups and companies to coordinate efforts and, to the extent possible, present a united industry position on the important issues to be briefed.

## E. Groundwater (Includes Safe Drinking Water Act)

### 1. Congressional Developments and Response

Safe Drinking Water

Congress is expected to give final approval early in 1986 to a Safe Drinking Water Act reauthorization that would significantly strengthen the federal law that protects the quality of drinking water.

On May 16, the Senate approved by voice vote a Senate bill (S. 124) sponsored by Senator Dave Durenberger (R-MN). On June 17, the House by voice vote approved a House proposal (H.R. 1650) introduced by Rep. Edward R. Madigan (R-IL). Both bills would set deadlines for the Environmental Protection Agency to regulate drinking water contaminants, require monitoring for unregulated contaminants, and establish a demonstration program for planning to protect aquifers that are the sole or principal source of a community's drinking water.

After the early action the House and Senate conference was delayed repeatedly because staff and members were busy with Superfund, clean water and other issues. Staffers remain optimistic that differences over standard-setting, groundwater, judicial review and funding provisions will be resolved. The House bill would require states to develop and adopt plans to protect all present and potential underground sources of drinking water. Also, the House bill has significantly lower authorization levels. EPA objects to most of the main provisions of both bills, arguing they would lessen the agency's discretion and are unnecessary.

CMA has supported the Senate bill over the House version 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 6 hearings leading toward the introduction of his groundwater protection bill early in 1986.

Senators George Mitchell (D-ME) and Max Baucus (D-MT) introduced their groundwater protection bill on November 7, 1985, S. 1836, primarily to begin the discussions in the groundwater debate. This bill would require states to have their own groundwater protection programs and to establish groundwater quality standards, with assistance from the Federal Government. CMA is currently working on an analysis of the Mitchell/Baucus bill.

The National Groundwater Policy Forum, led by Gov. Bruce Babbitt of Arizona, announced its legislative recommendations. These recommendations, together with Senator Mitchell's and Senator Durenberger's bills, will likely serve as the initial focal point for the groundwater legislative debate next year. CMA is in the process of completing an analysis of the Forum's proposal.

2. Regulatory Developments and Response

EPA Health Advisories Comments. The EMC's Groundwater Management Task Group submitted comments to EPA on the Agency's generic approach to health advisories and detailed comments on 25 chemical-specific health advisories. CMA's comments identified concerns and deficiencies with several assumptions, inclusion of some data, and specific health advisories language. The final health advisories will be used in developing drinking water criteria that will be used in developing state drinking water standards.

3. Policy Development, Analytical and Program Activities

Recommended Maximum Contaminant Levels Litigation. The EMC authorized CMA to participate in a judicial challenge of EPA's recently published recommended maximum contaminant levels (RMCL). For several substances, EPA has set the RMCL at zero. These limits are important health-based standards that will serve as precedents for regulation of many chemicals used or manufactured by member companies. The EMC's Groundwater Management Task Group has identified several serious technical flaws in EPA's standard setting methodology, and in the Agency's interpretation and use of scientific information.

4. Litigation and Related Legal Activities

Safe Drinking Water Act RMCL Litigation. On November 13, EPA promulgated final Recommended Maximum Containment Levels (RMCL's) under the Safe Drinking Water Act for eight volatile synthetic organic chemicals (VOC's). These chemicals are benzene, vinyl chloride, trichlorethylene, ethylene dichloride, carbon tetrachloride, vinylidene chloride, methyl chloroform, and p-dichlorbenzene. While the RMCL's are technically only non-enforceable health goals, they have critical importance for the chemical industry, primarily because they are often used as the standards of acceptable groundwater quality in Superfund cleanups, RCRA permitting decisions, and state groundwater management programs. In setting the eight VOC RMCL's,EPA followed a strategy which resulted in the RMCL's for five VOC's being set at zero on the basis of finding of "probably carcinogenicity." Moreover, it appears that EPA misinterpreted scientific data in reaching several of its conclusions regarding carcinogenicity of these VOC's. Because of these issues, and the importance of the RMCL's, CMA has decided to participate in litigation challenging EPA's decisions. CMA is coordinating its efforts with other industry groups that will also be involved in the case.

5. Communications

The department is working with the State Affairs Task Group of the Groundwater Management Committee to prepare an information brochure on groundwater for use at the state level.

F. Regulation of Chemicals (TSCA and related)

1. Regulatory Developments and Response

Response to TSCA Section 4 Generic Testing Issues. Positions on two generic testing issues were developed by the Hazard Assessment Task Group, with the intent that the positions be used in CMA discussions with EPA or as CMA positions on proposed rules or legislative issues related to tests.

- Issue: Use of TSCA Section 4 to require the testing of substances used as inert pesticide ingredients.

  Position: The Task Group concluded that EPA cannot justify

Section 4 test rules solely on the basis of use of a chemical substance as a pesticide inert. A chemical substance would be regulated under TSCA only up to the point in its life cycle where it is incorporated into a pesticide formulation. Subsequent to its incorporation, the inert ingredient becomes part of a FIFRA pesticide formulation and is regulated appropriately under FIFRA. This CMA position was approved by the Health and Safety Committee at their November meeting.

- Issue: Use of TSCA Section 4 to require monitoring for the presence of chemical substances.

  Position: EPA does not have the authority under Section 4 to require monitoring or analytical tests because Section 4(a) is limited to testing of the health and environmental effects of chemical substances and mixtures. Recognizing, however, that reliable human and environmental exposure data may be necessary for a sound assessment of risks presented by a chemical, CMA will, as a matter of policy, work with EPA to to develop monitoring and analytical information when it is needed. This position was approved by the Health and Safety Committee at their December meeting.

Quality Assurance. At the request of the Hazard Assessment Task Group, CMA co-sponsored a conference in November with AIHC in Raleigh, North Carolina, entitled "Managing Conduct and Data Quality of Toxicology Studies." The conference was a joint industry-government sponsored venture, and established a dialogue between toxicology testing groups in government and industry. Quality assurance programs and GLP issues were discussed. Proceedings will be forthcoming in 1986.

Comprehensive Reporting. On December 20, 1985, CMA filed comments on the second draft of the form developed for the comprehensive assessment information rule. Although the form was a great improvement over the first draft, CMA reiterated its recommendation that the Agency coordinate the collection and management of data before implementing this broad reporting rule. CMA will meet with the Agency as the proposed rule enters Agency review in February.

New Chemical follow-up. The Conservation Foundation's Toxic Substances Dialogue Group, of which CMA is a member, has recommended that EPA implement a new approach to following the commercial development of new chemicals. The procedure recommended by the Dialogue Group would allow EPA to more easily follow, and if necessary regulate, changes in manufacture or use that occur after a new chemical has been through Agency review of the premanufacture notice and then manufactured for commercial purposes. CMA and other members of the Dialogue Group will meet with EPA in January to discuss the proposal.

EPA's Methods for Assessing Occupational Exposure. The Health and Safety Committee's Exposure Assessment Task Group reviewed and critiqued EPA's methods for assessing occupational exposure to chemicals. The Exposure Assessment Task Group proposed modifications to dispersion assessments, particularly in particle aerodynamics, to improve the accuracy of EPA's assessments.

Evaluation of Exposure Assessment Methods. The Exposure Assessment Task Group has begun an evaluation of exposure assessment methods used by government and industry. The project will determine the validity and appropriate uses of the assessment methods, and will improve the accuracy of exposure assessments done as a part of the regulatory process. The evaluation will also highlight critical data gaps and assumptions. These can then be targeted as high priority research areas. The evaluation of exposure methods will make it less necessary to rely on "worst case" assumptions in the exposure assessments that form the foundation of many regulations.

Food and Drug Administration Symposium. The Health and Safety Committee's Risk Assessment Task Group provided scientific information to the Food and Drug Administration's symposium on Interspecies Extrapolation of Carcinogenicity Data. The symposium identified scientific advances in extrapolating laboratory experiments to human experience. Information provided by the Risk Assessment Task Group included qualitative extrapolation between species, factors that contribute to differences in response between species, approaches that have been used in the past, and potentially productive areas for future research.

Health and Safety Reporting. On November 27, 1985, CMA submitted comments to EPA on its proposals to amend the requirements for submitting health and safety data under section 8(d) of TSCA. CMA agreed that there are circumstances that will justify extending the period of reporting for certain chemicals, but objected to EPA's proposal to extend most reporting from 3 years to 10 years. CMA also took exceptions to EPA's proposal to require companies to list studies that have already been submitted to other offices within EPA. For studies already submitted to other federal agencies, we urged EPA to begin implementing the interagency coordination provisions of section 10 of TSCA to relieve companies of the burden of duplicative submissions.

Procedural Rules for Negotiated Testing. In August, 1985, CMA and the Natural Resources Defense Council (NRDC) jointly submitted to EPA for official approval a draft procedural rule to allow EPA and manufacturers to negotiate toxicity testing requirements. The draft was the product of several meetings involving CMA, NRDC, and EPA staff. Senior EPA officials are now reviewing a final version that copies the draft almost exactly. The final version is expected to be promulgated in February, 1986. It will re-establish negotiations as a legitimate procedure for deciding what testing needs to be done. It also represents the occasional value of direct discussion with a national environmental organization.

Biotechnology Developments. CMA staff counsel, as well as several member company representatives, are participating in a Keystone Center dialogue on the regulation of biotechnology. The initial meeting at Keystone occurred in October; others are planned for winter, spring, and summer of 1986. In the meantime, on November 14, 1985, the Office of Science and Technology Policy announced the creation of a Biotechnology Science Coordinating Committee within OSTP to coordinate among federal agencies and promote consistent policies. More recently , Senators Durenburger (R-MN) and Baucus (D-MT) introduced S. 1967, The Biosafety Act, which would amend the Toxic Substances Control Act to establish a permit system for genetically engineered microorganisms and to give a statutory charter to the Biotechnology Science Coordinating Committee.

2. International Regulation

U.S./Sweden Consultations. On October 22-23, 1985, the International Affairs Group (IAG) participated as industry advisors to the U.S. Governmental Delegation at bilateral consultations with the Swedish Government on its "New Act on Chemical Products in Sweden". The consultations were held in Stockholm. IAG had previously submitted comments on the New Act to the Office of the U.S. Trade Representative (USTR). The comments address a number of chemical notification, testing, confidentiality and labeling issues, as well as suggested amendments on chemical inventory compilation and exemptions from notification.

Consultations with Japanese on Chemical Testing. On November 19, 1985, the IAG met with a Japanese Delegation (from Ministry of International Trade and Industry (MITI) and the Japan Chemical Industry Assiciation (JCIA)) to discuss the forthcoming revisions to the Japanese Chemical Substances Control Law. The central issue of the agenda was whether Japan will adopt a base-set (European style) test requirement or adopt a case-by-case philosophy (TSCA style) for testing of new chemicals. The Japanese chemical industry privately opposes the base-set philosophy but yields to the Government and the academic proponents of such a requirement. As a consequence of our meeting, a detailed text was prepared and submitted formally by members of the Dow Japan staff to MITI, summarizing IAG's concerns and recommendations against the adoption of the base set approach in Japan.

European Community Preparations Directive. The IAG has submitted its views to the U.S. Government regarding the European Council's Directive Relating to the Classification, Packaging and Labeling of Dangerous Preparations. Aided by counsel, a cooperative effort between IAG and the Health and Safety Committee has yielded a set of comments which were submitted to USTR, the Departments of State and Commerce, and EPA on January 7, 1986. The comments relate to confidentiality, labeling and product liability concerns with the Directive, as well as the economic burdens of compliance on the chemical industry.

Australian Chemical Law. The IAG will address new developments on the Australian Chemical Registration Law which have been under consideration for several months and appear to be in a nearly finalized form that should be published within the next three months.

## G. Public Compensation (Risk, Health and related issues)

### 1. Congressional Developments and Response

House Superfund Activity. On December 10, the House of Representatives defeated an amendment to add a federal cause of action to the Superfund reauthorization bill. The amendment, offered by Representative Barney Frank (D-MA), would have allowed claimants to sue in federal court for health or property damage allegedly caused by exposure to hazardous wastes. Companies sued would have been absolutely liable for any damages.

The House vote assures that the Superfund reauthorization bill will not include a public compensation provision. In considering its version of a Superfund bill two months earlier, the Senate voted against establishing a compensation fund as part of a "demonstration program." The House and Senate votes are a significant victory for CMA, which actively worked to prevent passage of a costly new compensation program.

Product Liability. CMA submitted comments on the second draft (Staff Working Draft #2) of the product liability bill circulated by Senate Commerce Committee Chairman John Danforth (R-MO.) These comments commend Senator Danforth for seeking product liability reform and for incorporating many of the suggestions offered to the previous draft. Nevertheless, Staff Draft #2 remains seriously flawed. The principle problem is with causation. A new presumption (a 30% increase in the incidence of a disease establishes causation) would impose liability even though there is only a small chance of actual responsibility. In addition, the proposal lacks fundamental due process. A determination of causation by a newly created National Toxic Health Effects Panel would be unreviewable and beyond the challenge of parties on either side. Hearings on the draft proposal are expected in late February or early March.

2. Insurance Issues Developments and Response

Environmental Liability Insurance. CMA assisted in the preparation of a report to the National Association of Insurance Commissioners (NAIC) on environmental liability insurance. The NAIC is an organization of state insurance regulatory officials, with active participation by state insurance commissioners.

The NAIC report deals with the background and history of the environmental liability insurance problem, outlines the legislative and judicial developments affecting the marketplace, and assesses current market conditions. CMA participation in the NAIC effort assured the development of a fair and balanced report.

Work is now underway on the second phase of the project, which is to make appropriate recommendations to the NAIC on how to address the environmental liability insurance problem.

## H. Occupational and Public Safety

1. Congressional Developments and Response

Worker Right-to-Know. Rep. Joe Gaydos' (D-PA) Health and Safety Subcommittee held additional hearings last October and November on his High Risk Occupational Disease Notification and Prevention Act, H.R. 1309. This bill 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 exposed to increased risk of occupational disease.

Medical experts from the Monsanto Co. and Dow Corning testified on behalf of CMA October 9. We supported the general goals of H.R. 1309 but strongly opposed its specifics, especially its trigger mechanism for determining "elevated risks" of occupational disease. Other industry groups and the Administration testified and took a similar approach.

Backed by solid organized labor support, Mr. Gaydos still plans to mark up the bill and report it from the subcommittee in the Spring of 1986. A CMA technical task group is developing responsive positions that can be used to work constructively with subcommittee members and their staff.

Community Right-to-Know (RTK). Last September, the Senate passed the Superfund reauthorization bill, H.R. 2005, including community RTK amendments sponsored by Senator Frank Lautenberg (D-NJ). CMA and its member companies worked with Lautenberg to achieve more practical emergency response provisions generally consistent with our CAER initiatives. Also included were somewhat narrower hazardous substance inventory emissions/discharge reporting requirements, which still need more improvements in the conference.

On December 10, 1985, the House of Representatives passed its Superfund reauthorization, H.R. 2817. The community RTK requirements are based on material safety data sheets, emergency response provisions are basically consistent with the CMA CAER/NCRIC programs, and we supported the essential features of those two provisions. But a third element was added: emissions/discharge reporting. We succeeded initially in limiting th list of extremely toxic substances, for which such reporting would be required, to only those substances so acutely toxic that their release in any amount would present an imminent and substantial endangerment to human health. Also included was language permitting a company to utilize reasonable estimates rather than expensive direct monitoring for meeting the reporting requirements. Eventually however, the list of extremely toxic substances was broadened by a floor amendment sponsored by Congressman Robert Edgar (D-PA) to include substances causing adverse chronic health effects.

CMA has not argued that there is no need for any emissions/discharge reporting. However, we did contend that hastily adding ~~such~~ reporting to Superfund would be premature and detract from the bill's main purpose: the clean up of hazardous waste sites. CMA worked with a coalition of allied industry groups with a small business focus, led by the Synthetic Organic Chemicals Association (SOCMA) in support of efforts by key Congressmen John Dingell (D-MI), James Broyhill (R-NC) and Gene Snyder (R-KY). Despite these efforts, which included state and local officials, the International Association of Fire Chiefs, and the Administration (EPA and the White House), the Edgar amendment finally prevailed on the House floor by one vote margin: 211-210.

CMA will be working with the industry coalition to achieve reasonable reporting criteria in the House/Senate Conference on Superfund.

2. Policy Development, Analytical and Program Activities

Safety Guides. In response to requests from member companies, the Health and Safety Committee, through its Safety Programs Task Group, is updating CMA's discontinued Safety Guide series. The revised publications will assist member companies in addressing certain important safety questions. The revised publications will focus on safety techniques. In addition to new versions of sixteen of the original "Guides", new documents on the storage and handling of hazardous substances and site emergency response are being eagerly anticipated by CAER participants.

Process Safety Seminars. HSC's Process Safety Analysis Task Group has conducted two Process Safety Management seminars during the past years, with the third scheduled for February 13, 1986. These overviews of programs and techniques have been uniformly well attended and enthusiastically received. The February presentation is being opened to non-CMA participants; a large turnout of government regulatory agency personnel is anticipated.

Revision of ANSI Z129.1: Hazardous Industrial Chemicals - Precautionary Labeling. The Labeling Task Group of the Health and Safety Committee began its revision of the ANSI Standard on precautionary labeling in the fall of 1985. Among the additions to be incorporated in the voluntary standard are chronic hazard language and symbol recommendations. The Projected date of completion is early 1987.

3. Litigation and Related Legal Activities

New Jersey Right-to-Know Litigation. On October 11, 1985, the Third Circuit Court of Appeals issued a decision in the appeal of a district court decision. The Court held the hazard communication standard preempted the New Jersey Right-to-Know law as it applied to manufacturers. In January of 1985, Judge Dickinson Debevoise rendered the preemption decision in New Jersey State Chamber of Commerce v. Hughey. The Court of Appeals affirmed in part and reversed in part, the district court decision. The Court held:

(1) the hazard communication standard preempts the New Jersey law as it pertains to protection of employee health safety in the manufacturing sector;

(2) there is no preemption insofar as the New Jersey law applies to employers outside the manufacturing sector or insofar as it requires identification and reporting of environmental hazards;

(3) the Court remanded to the district court the question of whether the environmental hazard labeling requirements are subject to implied preemption; and

(4) upheld the New Jersey law's trade secret of protection.

The Court said its holding in United Steelworkers v. Auchter compels a ruling that the hazard communication standard preempts the New Jersey law with respect to disclosure to employees in the manufacturing sector. The question left unresolved by the Steelworkers decision is to what extent the other provisions of the New Jersey law are preempted by the hazard communication standard.

The Court also said other provisions could be preempted under the doctrine of implied preemption: (1) if it is impossible to comply with both federal and state requirements, or (2) if enforcement will thwart Congressional purpose.

The questions remanded to the district court have not yet been answered. Although parties have held a pretrial conference, a decision on the issue of environmental labeling requirements is not expected in the near future.

## I. Community Awareness and Emergency Response (CAER)

### 1. Regulatory Developments and Response

On December 17, 1985, the Environmental Protection Agency officially released its "Chemical Emergency Preparedness Program Interim Guidance" (CEPP). Along with the guidance document, EPA released a list of 402 acutely toxic chemicals and chemical profiles. This voluntary program is "intended to help local communities become aware of any acutely toxic chemicals in their area and prepare to respond to any accidental release of such chemicals into the air." The agency will accept written comments on the CEPP for a 90 day period. CMA task groups will review the package and comment to EPA.

While developing this program, the agency invited comments and advice from CMA and others. EPA included many of CMA's suggestions. The overall objectives of the program are compatible with CAER and will complement the chemical industry's efforts by helping us implement our program. In fact, the agency guidance document specifically describes the CAER program and looks to it as the industry's way of improving community contingency planning. CMA has distributed the guidance document, list of chemicals and chemical profiles to company CAER coordinators.

On November 18, 1985, CMA participated in a national teleconference with EPA, the Federal Emergency Management Agency and other federal agencies. The purpose of the teleconference was to describe EPA's CEPP, CMA's CAER and other emergency response programs and to show how they can work cooperatively.

### 2. Policy Development and Program Activity

On November 12, 1985, CMA President Roland sent a letter to executive contacts of CMA member firms. Mr. Roland asked the executive contacts to do two things. First to check with their CAER coordinator to assure that they have submitted initial milestone reports to CMA. At that time, only 93 of the 174 participating companies had reported. Second, he asked the contacts to support their CAER coordinators and plant managers by making sure they have the resources to make the program successful. Also, he recommended that the executive contacts make CAER a part of their companies' operating procedures. To date, 119 companies out of 174 participating in the program have reported. Those companies have selected over 1,100 sites to participate in CAER. Over 50% of those sites have initiated community coordinating groups.

The CAER Task Group is coordinating the program's implementation with allied trade associations and others to broaden direct support for CAER. In addition to meeting with the Council of Chemical Associations, presentations were made to: the National Association of Chemical Distributors, the Chlorine Institute, the Chemical Marketing Research Association, the Chamber of Commerce, and the American Petroleum Institute. Future meetings will include the Synthetic Organic Chemical Manufacturers Association, the Chemical Specialties Manufacturers Association, the National Paint and Coatings Association, and the National Association of Towns and Townships.

3. International Aspects

World Environment Center. The dialogue between the International Affairs Group and the World Environment Center continues as to how best to translate the CAER document into usable texts for Third World country applications. The IAG has discussed the possibility of working with Latin American chemical industry associations to provide a Spanish translation of CAER for Latin American use.

4. Outreach Activity

Several state chemical organizations working with CMA have held CAER workshops: Florida, California, Ohio and New Jersey have put on workshops that have focused on local implementation of CAER. These workshops have typically included local industry and emergency response officials who discussed CAER case histories. The Texas and Michigan chemical industry councils have scheduled CAER workshops for early 1986.

5. Communications

The 35-page briefing package, "One Year After Bhopal" , was distributed to a mailing list of 1000. The package reviews industry initiatives to improve process safety, transportation safety, emergency preparedness and community awareness of chemical risks and hazards.

An update on the progress of the industry on programs announced last April - CAER and NCRIC - was sent to all editorial board contacts in anticipation of possible editorials concerning a one year Bhopal anniversary. Material went to nearly 200 writers.

J. Chemical Product Distribution Advocacy

1. Congressional Developments and Response

Hazardous Materials Transportation. Reauthorization of the Hazardous Materials Transportation Act is gaining momentum within Congress. Several groups representing shipper, carrier, emergency response, and public interests are all gearing their activities towards generating significant changes to the existing legislation. Three primary groups have emerged: the Office of Technology Assessment's Hazardous Materials Committee; the DOT's Hazardous Materials Transportation Advisory Committee; and the Hazardous Materials Coalition. CMA is represented on all three groups.

CMA is concerned about the push to establish a federal fund for emergency response training and equipment. Local authorities are generally the first on the scene of transportation accidents involving hazardous products. Their representatives claim that industry funding is necessary to ensure that they are adequately equipped and trained to properly respond to such emergencies. The chemical industry has countered with extensive voluntary resources to meet this need.

CMA has strongly supported the recommendations calling for regulatory consistency among federal, state and local authorities over the transportation of hazardous materials. This national regulatory consistency, coupled with increased enforcement, will contribute greatly towards enhancing hazardous material transportation safety. It will also prove economical to industry in that compliance with only a single set of requirements would be required.

The first reauthorization bill, H.R. 3779, sponsored by Representative Gonzales, has been referred jointly to the House Committees on Public Works and Transportation, Energy and Commerce, and Ways and Means. It represents the worst case scenario. The bill would establish a federal Emergency Response Fund financed by industry, and advanced notification of shipment, registration and routing. While referencing uniformity of regulations, the bill does not explicitly call for uniform federal, state and local transportation regulations. CMA is determining whether this bill will receive favorable consideration in Congress, and will act accordingly.

Water Resources Development Act. CMA submitted detailed comments to Congress on the provisions of the Water Resources Development Act, S.1567, regarding the imposition of an ad valorem tax on imports and exports. Specifically, CMA called for Congress to impose a cap on the tax for all exports and shipments between U.S. ports. Further, CMA urged Congress to avoid double taxation for cargo unloaded and reloaded onto a vessel at the same harbor

Conrail Acquisition. CMA formally notified Congress that it supports the transfer of Conrail to the public sector. CMA expressed the position that between the existing sale options, Morgan Stanley and Norfolk Southern, the public offering advanced by the Morgan Stanley group comes closest to satisfying the chemical industry's concerns, provided Conrail operates consistent with the language and spirit of the new Ex Parte 445 rules of the ICC that promote rail-to-rail competition.

CMA explicitly opposed the transfer of Conrail to a major Eastern Railroad. Such action would reduce rail-to-rail competition to an unacceptable level.

Shipping Act of 1984. CMA is continuing to seek an amendment to the Shipping Act of 1984 that would exclude all chemical parcel tankers from the antitrust exemption to set rates and designate markets. This would eliminate case-by-case litigation on carrier action as was the case with the recent decision in Andino/Flota. (See Chemical Parcel Tankers in Section J.5)

Cargo Liability Bills. CMA is developing a position to support legislation that would modify ocean cargo liability laws. CMA favors clarifying liability limits so that they apply to packaged units within a container, not to the 40-foot container. CMA also favors legislation based on the Hamburg Rules since they encourage ship owners to take proper care of cargo.

2. Regulatory Developments and Response

HM 196. A new Work Group has been formed to coordinate efforts in complying with this final DOT rule pertaining to the transportation of chemicals that pose poison inhalation hazards. Specific concerns the Work Group will address include: types of packings that can be used to transport these materials; information required by DOT to obtain approval for these packagings; short acute toxicity data; and the determination of which materials need additional toxicity testing. The work group will also explore the feasibility of sharing the cost of this testing.

Rail To Rail Competition. The Interstate Commerce Commission has published its new rules pertaining to competitive access of railroads to shipping facilities. These new rules reflect the major points agreed to and submitted by CMA and the rail industry.

In the first test of the Commission's new rules, the Midtec Case has been reopened. It will address the Use of Terminal Facilities and Reciprocal Switching arrangements by a competing railroad. To ensure the chemical industry's concerns are made a part of the record in this proceeding, CMA has petitioned the Commission for leave to intervene.

Conrail Acquisition. Norfolk Southern presented the federal government with a revised divestiture plan for the Conrail system. Following careful analysis of this new plan, CMA reaffirmed its support for the public offering proposal presented by the Morgan Stanley investment group. CMA's support for the public offering, as being the only existing proposal that would maintain rail competition in the Northeast region of the country, was conveyed to DOT Secretary Dole and Congress on December 4, 1985.

Amendments to Cargo Tank Specifications. In response to the Department of Transportation's proposed new specifications for cargo tanks, CMA has formed a work group to submit an impact statement. The proposed requirements call for significant changes in the manufacture, operation, maintenance, repair and requalification of all specification cargo tanks used to transport bulk shipments of chemicals and other hazardous materials by highway.

Brazil Cargo Reservation. The United States has agreed with Brazil to renew for one year their bilateral agreement that condones Brazilian laws requiring nearly 80 percent of U.S. exports and imports to be transported on high-priced Brazilian or U.S. flag vessels. Some minor modifications favoring shippers were made to the bilateral agreement. Most significantly, the U.S. told the Brazilians that the anticompetitive nature of the Brazilian cargo reservation laws must be significantly liberalized or the agreement will not be renewed again next year. CMA staff attended the negotiations as a shipper observer. CMA will continue to seek liberalization of the cargo reservation system over the next year.

Emergency Response Training and Equipment. In an effort to develop detailed information showing the amount of training and equipment the chemical industry is making available to emergency responders, the Distribution Committee is developing a member company questionnaire. This information will prove particularly useful in the reauthorization hearings for the Hazardous Materials Transportation Act.

Tank Truck Corrosion. Discussions are continuing with tank truck operators over the development of an educational program designed to reduce premature deterioration of tank trucks due to corrosion.

3. Rates and Compensation

Tank Car Compensation. The Commission asked the Joint Negotiating Committee to address three matters with respect to the prescription of a national tank car mileage allowance system. These matters were: the market sensibility of the proposed system; quantification that the new formula will reduce the gap in allowances between older and newer cars; and, a comparison of the allowances paid under the proposed formula, the 1979 formula and the interim formula. These comments were submitted on November 4, 1985. Objection to these comments were expressed by WFIX and CF Industries. CMA joined the other car providers and filed a response to the objections.

CMA is considering supporting the formation of a negotiating group to represent all the interested car providers.

4. Litigation and Related Legal Activities

Chemical Parcel Tankers. CMA recently won a case before an administrative law judge of the Federal Maritime Commission. The judge decided that two carriers in the US/Columbian trade should not be given antitrust immunity to establish a joint chemical parcel tanker operation. Assuming the case is not reversed on appeal, it will serve as a strong precedent that chemical parcel tankers may not collectively set rates or allocate markets. CMA, which filed extensive briefs before the administrative law judge, will file a brief in the appeal in order to protect the victory. CMA is also seeking an amendment to the Shipping Act of 1984 which would prohibit rate setting and market allocation by chemical parcel tankers.

K. National Chemical Response and Information Center (NCRIC)

All elements of the National Chemical Response and Information Center were on line by the end of December. Although much work remains to be done to insure maximum participation by the membership and use by the public, the center was completed on schedule.

1. CHEMTREC

CHEMTREC closed out 1985 with a 17% increase in activity over 1984 levels. A total of 35,869 calls were handled, of which 7,400 were emergency related; non-emergency calls totaled 26,619. Emergency related calls received averaged 617 per month. Non-emergency calls received are in excess of 2,200 per month.

Medical emergencies are showing a slow but steady increase since CMA officially announced that CHEMTREC would offer assistance to physicians seeking treatment information.

Referrals to the Chemical Referral Center (CRC) are off to a slow start since CRC was activated 27 December, but this is expected to increase significantly as we enter our busy period in early spring.

2. CHEMNET

The CHEMNET program began operation on November 1, 1985. At that time we had a membership of 56. Since that time we have added another 3 members. Our current totals are 59 members, of which 35 are participants and 24 are subscribers.

The participants in the CHEMNET program have designated 121 emergency response teams to be a part of the system. The program now includes three contractors that are available to the membership. The contractors have 29 teams. In combination the system has 150 teams that are located in 35 states. This represents a very significant resource to respond to serious transportation incidents.

During the months of November and December, we used the CHEMNET system once. In that case a contractor, O.H. Materials, responded to an event because the shipper could not reach the scene in a reasonable amount of time.

We expect use of the program to grow as the membership has a better understanding of the resources it provides. To expedite that understanding we have scheduled a workshop on March 12, 1986, in Washington, D.C., to provide details on the operation to the membership.

3. Chemical Referral Center

On December 27, 1985, the Chemical Referral Center (CRC) began receiving non-emergency health and safety chemical information inquiries from the public on its "800" toll-free number. These calls are referred to the designated contact at the company that manufactures the product in question. To date, 118 chemical companies (99 are CMA members) have provided the CRC with the company contact and product information which are required for participation in this service. The Center's chemical index currently contains profiles on over 20,000 products. This number will rapidly increase as participating companies send the CRC the requested information.

4. Emergency Response Training

First Responder Training Program. The videotape training program for first responders, "First On The Scene", is completed and being distributed. The videotape is 31 minutes long and includes a brochure and discussion guide. The following five key points are stressed in the program: approach the scene cautiously; identify the hazards; secure the scene; obtain help in handling the incident; and assure safe site entry.

The objective of the program is to reduce injuries and environmental damages and to insure that first responders know where to get help in handling the problem.

There are no restrictions on reproducing the videotape. CMA loans copies of the tape or sells them at a cost.

A copy of the training program has been donated to each of the ten FEMA regions and the National Fire Academy. Copies are also being distributed to the State fire and police instructors.

Lending Library. The lending library of audio-visual training aids for emergency response personnel has become an extremely successful program. Requests to borrow the programs have been received from emergency response personnel and state agencies from all over the United States. 10,000 copies of the brochure listing the programs have been distributed. Additional copies of some programs purchased were to meet all requests. Three new programs have been added to the library. A new brochure, being printed, should be available in a few weeks.

Recommended Terms for Personal Protective Equipment. This technical bulletin is now available for distribution. The booklet was developed to encourage the use of consistent terminology by those who prepare guidelines for emergency responders and to define these terms for emergency response personnel.

One of the motivating reasons for preparing the document was the ambiguous use of commonly used terms such as "Full Protective Clothing" and "Special Protective Clothing". Full Protective Clothing could mean firefighters' bunker gear/turnout gear or encapsulating chemical suits, depending on who prepared the guidance material. "Special Protective Clothing: could be encapsulating chemical suits or a "splash suit".

Copies of the bulletin have been sent to CMA members urging them to use these terms when preparing Material Safety Data Sheets or guidance information for emergency response personnel.

CHEMTREC Workshops. A CHEMTREC Emergency Response Team Workshop will be held in Mobile, Alabama on February 25-26, 1986. This will be the 30th workshop to be sponsored by CHEMTREC since the first one was presented in 1978. Nearly 3,700 people from the chemical, carrier and emergency response communities have received training for on-scene handling of chemical emergencies through these workshops.

5. Communications

The Regional Communications Division is producing a leaflet for the Chemical Referral Center and an overall booklet for NCRIC.

Regional Communications has approved a matching grant to enable the Ohio Chemical Council to produce a film on first responder training that will be specific to Ohio.

Media training was provided for member company representatives who will participate in upcoming media tours on the National Chemical Response and Information Center.

## L. Energy and Petrochemical Feedstocks

1. Regulatory Developments and Response

FERC Order No. 436 On Interstate Natural Gas Transportation. On October 9, 1985, the Federal Energy Regulatory Commission (FERC) issued a rule on interstate natural gas transportation that adopted many CMA recommendations. The rule authorizes self-implementing, nondiscriminatory interstate transportation services. Both firm and interruptible services must be offered by participating interstate pipelines. Also, reservation fees for firm services are permitted.

The FERC subsequently modified the rule so that pipelines must permit distribution company customers to reduce their existing sales demand by up to 25% per year over five years. The modified rule (FERC Order 436A) also permitted certain transportation programs to continue until February 15.

Thus far, most pipelines have been unwilling to transport gas under the new rules. The Justice Department is investigating complaints that pipelines have colluded in refusing to carry gas under those terms.

FERC Proposed Rules on Natural Gas Pricing. CMA and other industrial consumers urged the FERC not to implement a proposed block billing mechanism for interstate pipeline sales. On December 11, 1985, CMA testified before the FERC and presented results of an economic impact study on the proposed block billing rule. CMA said the cost of the rule to American industry would be $1.8 billion per year, and the annual cost to the chemical industry alone would be approximately $600 million.

Both the chemical industry and industry in general, rely substantially on gas purchased directly from producers. For example, the chemical industry purchases 58% of its natural gas from sources other than conventional pipeline system supply. The study, done for CMA by Foster Associates, predicts the proposed pricing rule would raise the price of gas being purchased directly from producers. Also, industrial users buying interstate gas could be allocated higher gas costs.

The FERC proposal also restricts pipeline sales of low-cost gas to existing customers. This will increase pressure on both local distribution companies (LDCs) and end-users to purchase gas directly from producers, leading to a shift away from conventional pipeline system supply. The proposed rule nullifies the potential advantages of increased competition through the expedited certificate process. It reduces pipeline-to-pipeline competition, and encourages bypass of traditional pipeline system supply sources.

The study also indicates the FERC proposal would increase spot sales, direct purchases, and traditional pipeline purchases. It would add pressure on LDCs and end-users to buy directly from producers since pipeline competition will be restricted to higher-priced gas. This will increase the demand for spot or direct-purchase gas.

In addition, CMA noted that since direct-purchase gas is in competition with system-supply gas, the marginal cost of system-supply gas will be higher. The ceiling on direct-purchase prices will be raised by as much as 82 cents per million Btu.

Proposed Rules on Old Gas Pricing. The FERC block billing proposal fails to deal with the basic problem of continuing price controls that prevent maximum efficient development and use of the lowest cost "old gas" resource base, and CMA continues to advocate legislation to deregulate wellhead ceiling prices, and to remove market restraints. It appears that some CMA goals may be achieved through regulatory reform proposals offered recently by the Department of Energy with the support of the Justice Department. On November 18, DOE proposed a rule for final action by the FERC that makes all old gas eligible for a higher "just and reasonable price", and that would establish incentive prices for old gas.

On December 20, the FERC issues a schedule for the notice of proposed rulemaking (Docket RM 86-3). CMA is preparing written comments that are due February 25. A public conference will be announced at a later date.

The FERC is requesting comments on: legal authority to adopt the proposal, the inter-relationship with the block billing proposal rule, and the economic and market impacts of raising old-gas prices.

## M. Taxation

### 1. Congressional Developments and Response

President Reagan's last minute intervention provided the margin of victory as the House passed the Ways and Means tax bill H.R. 3838. Previously, a majority of 223 Republicans and conservative Democrats had rejected the Committee's efforts to bring the bill to a vote on the House Floor. After the President intervened, the House reversed itself on the rule of procedure 258 to 168, and passed the bill by voice vote.

Although H.R. 3838 differs significantly from the proposal outlined by President Reagan on May 28, the bill would nonetheless have a serious and adverse impact on the chemical industry. Key features of the House-passed bill include:

| | H.R. 3838 | IMPACT ON CHEMICAL INDUSTRY |
|---|---|---|
| CORPORATE TAX RATES | 36 percent flat rate; graduated rates for small businesses | Rate reduction does not offset loss of capital formation incentives |
| DEPRECIATION | | |
| o In General | New system: 7-year recovery of chemical | Cost: $400 million/year |

| | | |
|---|---|---|
| | equipment costs; 200 percent declining balance depreciation available. | |
| o Recapture | No additional recapture | |
| INVESTMENT TAX CREDIT | Repeal | Cost: $1 billion/year |
| MINIMUM TAX | 25 percent alternative tax imposed on tax preferences in excess of regular tax liability | Cost: $600 million/year |
| RESEARCH AND DEVELOPMENT EXPENSES | | |
| o 25 Percent R&D Tax Credit | Extend R&D tax credit at 20 percent; restrict qualifying R&D expenses as under H.R. 1188 | Value: $200 million/year (down from $300 million/year) |
| o Allocation of R&D Expenses to Foreign Source Income | No provision. Statutory moratorium of Treasury allocation Rules expired 12-31-85 | Cost: $300 million/year |
| o Foreign Tax Credit | Retain overall limitation on foreign tax credit with separate limitations for passive, financial and shipping income; impose comparability rules for payments in-lieu-of taxes. | Cost: less restrictive than President's proposal, but decreases utility of foreign tax credit substantially to prevent double taxation. |
| o Source Rules for Sales of Property | Substitute "Substance of Sale" for "Title Passage" test | Cost: would have serious and unpredictable impact, especially unsettling consequences in the tax treatment of U.S. exports. |
| o Allocation of Interest Expenses | Require allocation of all expenses among all members of affiliated group | Cost: for corporations with significant foreign operations, proposal would significantly reduce current deduction of expenses against U.S. income |

| | | |
|---|---|---|
| o Section 936 Possessions Credit | Retain Sec. 936 credit, tighten active trade or business trust and cost-sharing payment rules. | Cost: restrictions on use of Sec. 936 Credit could render manufacturing operations marginal in Puerto Rico |

It should be noted that House passage of the tax bill was attained after President Reagan had furnished a letter to Congressman Kemp (R-NY) in which he promised to veto "unacceptable" tax legislation that does not increase the individual personal exemption to $2000, provide for business capital formation, and assure a tax rate structure no higher than the Administration's original proposal. Each would significantly increase the bill's revenue cost and would require substantial additional offsetting revenue provisions.

Senator Bob Packwood (R-OR) has indicated that the Senate Finance Committee will begin its review of H.R. 3838 in early February. Moreover, Senator Packwood has expressed concern over the ability to find new revenue sources to offset proposed Administration changes in the House-passed bill. Thus, the prospects are doubtful that the Finance Committee will develop an early alternative to the House bill before the July 4th Congressional recess.

CMA strongly opposes the provisions of H.R. 3838 that would substantially increase business tax costs, particularly of capital intensive industries and of those that engage in significant international trade. A number of leading trade organizations have joined in opposition to these provisions. CMA has developed an on-going tax legislative work plan and is coordinating its activities with allied business groups.

## N. Plant Management and Design (Engineering Codes and Standards)

### 1. Regulations, Standards, Codes and Technology

Forum on Safety and Reliability Improvement. The Inspection and Engineering Advisory Committee's Maintenance Task Group will meet late January to make further preparations for the CMA forum on safety and reliability improvement through application of advanced inspection and maintenance techniques. This forum will emphasize those techniques that directly influence safety of plant and community.

Forum on Process Computers. The EAC Process Control Task Group met December 11 to refine the program and arrangements for the Fifth CMA Process Computer Users Forum to be held May 5-7, 1986. This forum will emphasize safety aspects of control systems design and operation.

Codes. CMA representatives attended the December 1985 National Electrical Code panel meetings to discuss and vote on actions taken during the January 1985 panel meetings. CMA submitted 114 proposals for revision of the 1984 code during the fall of 1984, and submitted 68 comments during the public review period. The Electrical Codes and Standards Task Group will meet in Atlanta next May to prepare for floor action on the 1987 code before its adoption at the NFPA Annaul Meeting. Safety and costs are the issues involved.

Standards. The committee prepared CMA positions on 17 API, IEEE, NEMA, NFPA, and UL standards proposed for adoption as American National Standards. These standards cover storage tanks, test procedures, electrical equipment in hazardous atmospheres, motors, generators, insulation, conduit, and controls. As with codes, safety and costs are the issues involved.

## O. International Trade/International Competitiveness

### 1. Congressional Developments and Response

Omnibus Trade Bill. The last Congress passed the Trade and Tariff Act of 1984 in October 1984. Although this act was the first omnibus trade bill to be passed in five years, it addressed mostly non-controversial issues of international trade. Since the passage of the law, the already large U.S. foreign trade deficit has swelled to record levels and probably reached $140 billion in 1985. The current Congress is making a concerted effort to address the nation's growing foreign trade problem and action on a new piece of omnibus trade legislation can be expected early in the session.

Senator Danforth (R-MO) introduced the Trade Enhancement Act (S. 1860). The bill contains multiple titles which among other topics, deals with foreign targeting, changes to trade remedy laws, the protection of intellectual property rights and authorization for a new round of multi-lateral trade negotiations. CMA already has an approved position on intellectual property rights and the CMA Board is being asked to address tariff cutting in the MTN at its January 27-28 meeting.

On the House side, the issue of tax reform prevented the House Ways and Means Committee from addressing the trade issue during the first session. It is expected that trade will be one of its top priority issues for the second session. Rep. Dan Rostenkowski (D-8-IL) has already sent a confidential memorandum to all committee members calling for a retreat early in 1986 to deal with international trade issues. Such a retreat was used last fall by the chairman to get the Ways and Means Committee started on its tax reform package. The House Energy and Commerce Committee, chaired by Representative John Dingell (D-16-MI), continues to push for jurisdiction on trade matters and the committee has already proposed a limited scope trade package.

CMA's International Trade Committee is currently preparing to address trade legislation in both houses as it develops. Wherever possible this will be done through the OCITA coalition.

2. International Negotiations/Agreements

Multi-lateral Trade Negotiation Last January in his State of the Union Address, President Reagan called for authority to enter into discussions leading toward a new round of Multi-lateral Trade Negotiations (MTN). A request for such authority is provided in Senator Danforth's (R-MO) Trade Enhancement Act (S. 1860).

The House will consider the same granting of bargaining authority early in the year. The CMA International Trade Committee is recommending that the Board adopt a position on the MTN at its January 27-28 meeting. The recommended CMA policy consists of a statement of principles to be considered by the U.S. negotiators participating in an MTN. The proposed position states that an MTN should focus on the issues of foreign market access, investment, and dispute settlement procedures for violation of international trading rules. Chemical tariff cutting should be done on a selective basis with import sensitive products exempted where justified.

3. Policy Development and Economic Analysis

U.S./Canada Bilateral Free Trade Agreement. The Trade and Tariff Act (TTA) of 1984 authorizes the President, upon proper notice to the Congress, to enter into discussions with other countries which could lead to a bilateral trade agreement. Much preliminary work has been done over the last few years both in the United States and Canada in preparation for such an agreement. This includes discussions between CMA's International Trade Committee and the Canadian Chemical Producers Association Trade Committee as well as studies by appropriate agencies of both countries' governments.

On December 10, 1985, President Reagan formally notified the Congress of his intent to enter into negotiations with the Canadian government. His action came as a result of a request from the Canadian government for such negotiations which is one of the requirements stipulated by the TTA.

CMA's membership has been informed of all opportunities for input into the government's hearings and studies on this issue which have already been conducted. Also, the CMA Board has approved a position on a U.S./Canada agreement which has been well received by officials at the Office of the U.S. Trade Representative and the Department of Commerce. Developments will be monitored closely and further action taken as appropriate.

4. Communications

The annual Economic Briefing for busin ess reporters focussed on the impact of international competition on the industry's ability to pass of the high cost of domestic environmental costs. Twenty reporters attended the briefing.

P. International Regulatory Issues (Health, Safety and Environment)

1. International Organizations

ILO Meeting on Industrial Hazards. On October 15-21, 1985, the International Affairs Group (IAG) participated in the International Labour Organization (ILO) "Tripartite Ad Hoc Meeting of Special Consultants on Methods of Prevention of Major Hazards in Industry." This meeting was held in Geneva, Switzerland.

The purpose of the meeting was to develop the necessary steps to improve safety and health in the production and storage of dangerous substances and to develop guidelines or an international convention onmajor industrial hazard control and emergency response systems. European pressure for international adoption of the "Seveso Directive" on this subject was deflected by U.S. and Third World participants. The meeting did not result in the compilation or adoption of international guidelines. However, continued vigilance is necessary to ensure that ILO follow-upactions do not unduly restrict the foreign operations of the U.S. chemical industry.

UNCTC/UNEP Seminar on Industrial Process Safety and Hazards. After considerable debate, the IAG decided not to participate in the joint U.N. Centre on Transnational Corporations (UNCTC) and U.N. Environment Programme (UNEP) December, 1985, Seminar on Environmental Management of Industrial Process Safety and Hazards. We believed that little progress would be made at the Seminar because of the wide range of complicated technical, legal, and policy issues raised in the Agenda and Overview Papers and the anti-industry biases reflected in these documents. IAG also objected to the strictly chemical industry focus of the Seminar and expressed concern about duplication of efforts with other international organizations. IAG will, however, follow the post-Seminar developments at UNCTC/UNEP for their possible impact on the chemical industry. Subsequent to our declining to participate, the U.S. Government, the International Chamber of Commerce (ICC), and the European Council of Chemical Manufacturers' Federations (CEFIC) also refused to attend.

OECD Developments. In November, 1985, IAG submitted comments to EPA and the State Department on new developments in the Organization for Economic Cooperation and Development (OECD) ChemicalsProgramme and on papers to be considered at Meetings of the OECD Environment Committee and Chemicals Group/Management Committee. IAG also commented on proposed agenda items for the upcoming OECD High-Level (Environmental Minister Meeting), anticipated to be held in late 1986or early 1987. Lee Thomas, EPA Administrator, is expected to attend.

In addition to the examination of the adequacy of available data on existing chemicals, the OECD plans to examine the need for restrictions on animal testing at this meeting. The IAG has formed an Ad Hoc Group to examine the animal testing question, which will report its recommendations to IAG sometime in the Spring of 1986.

2. International Regulations

U.N. Consolidated List of Chemicals. On December 5, 1985, IAG submitted comments to the State Department on a June, 1985, Paper of the U.N. Secretariat concerning the compilation of the U.N. "Consolidated List of Products Whose Consumption And/Or Sale Have Been Banned, Withdrawn, Severely Restricted or Not Approved by Governments". IAG reaffirmed earlier comments in opposition to this U.N. activity. However, underunder the assumption that the U.N. will continue to compile its List, IAG also recommended changes in the criteria for listing chemicals andon provisions to ensure against inadvertent disclosure of confidentialinformation obtained by the U.N. in conjunction with its activity.

3. Legal Support

EC Product Liability Directive. With the support of Counsel, IAG is preparing a proposed position paper on the European Community's(EC) July, 1985, Product Liability Directive. This Directive includes several concepts of concern to international business, including those of developmental risk, financial limitations on liability, strict liability, and the definition of a defect.

The member countries of the EC have three years in which to implement the Directive. However, the direction of this implementation process is unclear, since governments have been given various optionsby the Directive on critical aspects such as financial ceilings and developmental risk. It is, therefore, to be expected that differing, inconsistent implementing laws will be adopted by the EC member countries. This will inevitably lead to forum shopping by future plaintiffs.

IAG's comments will be coordinated with those of the International Chamber of Commerce and the European Council of Chemical Manufacturers' Federations.

Q. Patents and Protection of Technology

1. Congress



CMA 038644

Process Patent Legislation. On December 16, 1985, CMA sent a letter to the Senate Judiciary Committee Subcommittee on Patents, Copyrights and Trademarks expressing support for S.1543, the major legislative vehicle on process patents. The Subcommittee had held a hearing on this legislation on October 23, 1985.

S.1543 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. Many countries that are major trading partners of the United States already have such laws.

CMA's comments, however, also urge the Subcommittee to address ancillary issues before acting on S.1543: the General Agreement on Tariffs and Trade (GATT) implications of this legislation and circumstances under which a presumption of infringement should arise when the patent owner is unable to obtain information about the process used to manufacture a product.

Earlier in 1985, CMA had joined in a coalition with 73 companies and 12 associations in supporting legislation on this subject generally. This coalition is led by Intellectual Property Owners, Inc. (IPO).

The Uniform Patent Procedures Act of 1985. On November 25, 1985, CMA endorsed S.64, the Uniform Patent Procedures Act of 1985. This legislation, introduced by Senator Dole (R.Kan.) on January 3, 1985, focuses on government patent policy. It allows all government contractors to elect to retain title to federally funded inventions. It expands existing law, which applies to contractors from small businesses and nonprofit organizations, to include large business contractors as well.

CMA believes that S.64 is important to eliminate barriers to industry's development and application of new technology, and to encourage a climate under which such development and application will be fostered. Moreover, prompt passage of S.64 would create an atmosphere in which all industry, not just selected sectors, would be given the necessary incentives to make necessary financial investments to move new ideas into the marketplace.

2. Policy Development/Legal Issues

Section 301 Investigation on Korea. In November, 1985, the Office of the U.S. Trade Representative (USTR) initiated an investigation under Section 301 of the Trade Act of 1974, as amended, into the adequacy of the laws of the Republic of Korea governing the protection of intellectual property rights.

CMA submitted preliminary comments on this subject to USTR. Additional comments are being compiled, especially on those aspects of the Korean law that are most troublesome and specific examples of instances in which U.S. trade and investment have been negatively affected.

## R. State Legislative and Regulatory Advocacy

### 1. Superfund

In 1986 additional state superfund action is expected in Pennsylvania, New Jersey, Washington, California and South Carolina. In New Jersey alone the cost to industry could approach one billion dollars as Senator Ray Lesniak works to expand the fund. CMA State Hazardous Wastes/Groundwater Task Group members are working with the appropriate state trade organizations on this critical issue.

The Task Group is also completing the first phase of their study of state superfunds which consisted of a survey of 8 key states: Alabama, California, Illinois, Louisiana, Michigan, New Jersey, New York, and South Carolina. This initial study will result in a better understanding of the potential cost to the chemical industry and will also lead to an expanded study to obtain more comprehensive information. The study addresses the broad range of state superfunds, industry funding bases, amounts collected, actual uses of funds, site selection criteria, cleanup standards and future plans.

### 2. Public Compensation

Major state activity on public compensation continues to be in the state of Massachusetts where the Special Legislative Commission on Liability for Releases of Oil and Hazardous Materials has been reactivated. The commission will be studying insurance availability, quantification of need and liability issues. The state's public compensation bill was not acted upon in 1985, but it has been refiled for 1986.

### 3. Hazardous Waste Management and Regulation

The National Conference of State Legislatures has identified environmental issues as one of the top three issues facing the states in 1986. The other two are education and fiscal concerns. The major environmental issues are: groundwater, acid rain and the disposal of hazardous waste.

The siting of hazardous waste facilities, always a major concern, has become more complicated by the growing liability insurance problem. Most sites cannot be licensed without insurance, which is virtually unavailable.

Some of the action around the states includes California where the Governor's task force on toxics, waste, and technology will report its proposed solutions to the states hazardous waste capacity and policy problems on May 1. These recommendations will then be considered by the legislature as the basis for new laws. Ohio legislators have approved sharp increases in waste disposal fees ranging up to $20 per ton. The same Ohio bill provides funds to local municipalities for equipment and training for local emergencies involving hazardous waste.

4. Right-to-Know

Legislation - Following more than a year of intense debate, the Michigan Legislature reached a compromise on a package of legislation which has been endorsed by the Michigan Chemical Council. The package consists of three bills: H.B. 4111 addresses worker right-to-know and adopts the federal OSHA Hazard Communications Standard with expanded coverage; H.B. 5250 requires emergency response planning through information sharing with fire chiefs; H.B. 5251 sets community right-to-know provisions allowing the general public access to MSDS's and workplace lists of hazardous substances. The Legislature adjourned the 1985 session without taking final action on these bills, which will carry over to 1986. Consideration is expected early in the year.

In New Jersey, the Legislature gave final approval to A. 4145, the "Toxic Catastrophe Prevention Act." This bill requires manufacturers and users of a limited list of chemicals to register with the state and perform risk assessments of their chemical processes. The state has the authority to order risk reduction measures for covered facilities and could order operations to cease until risks are reduced to an acceptable level. The bill is expected to be signed into law by the Governor in the near future.

Litigation - On December 12, 1985, the U.S. District Court in Pennsylvania ruled on the relationship between the state's right-to-know law and the federal OSHA Hazard Communications Standard. The ruling followed the precedent set in New Jersey and held that the Pennsylvania law is preempted by the standard as it applies to the regulation of employee health and safety in the manufacturing sector. The ruling also held that parts of the law applicable to nonmanufacturers are still operative, thus creating a dual system in the state. The chemical industry may seek clarification on some aspects of the ruling.

The Ohio Manufactures Association has filed suit in Federal Court to overturn the city of Akron's local right-to-know ordinance on the grounds of federal preemption. Arguments and filings in that case are expected to continue through January.

1986 Legislative Sessions - The State Affairs Right-to-Know Task

Group is developing a list of issues which may become state legislative initiatives in 1986. These include: collecting data on chemical production and use in a state; mandatory chemical process controls; mandatory emergency response planning; and regulation of chemical shipments through communities. The task group is reviewing CMA policy in these areas and preparing position papers and other support materials for use by member companies and state CIC's who may face these issues during the year.

5. Groundwater

As mentioned earlier, the National Conference of State Legislatures (NCSL) identified groundwater contamination as one of the three top environmental issues of 1986. CMA's State Hazardous Waste/Groundwater Task Group reports that groundwater will be an issue in virtually every state.

NCSL and the Council of State Governments are developing position papers and model legislation, and CMA State Affairs is assisting these key organizations. Part of this effort will be shared with a new CMA work group which combines State Affairs representatives with their counterparts from the technical committees. All of this activity is primarily a result of U.S. EPA delegating most of the groundwater program to the states combined with the likelihood of the U.S. Congress not developing related legislation until 1988. So most of the groundwater action for at least the next couple of years will be at the state level.

6. Hazardous Materials Transportation

A bill has been recommended to the Colorado Legislature that would require most trucks carrying hazardous materials to get permits and follow designated routes. Money from permit sales and fines imposed on violators would be used to create a hazardous materials safety fund for training emergency response crews. The State Department of Public Safety would determine the routes that hazardous materials trucks could take and would issue other rules.

While the majority of the states have passed Good Samaritan laws, some states will be considering the issue in 1986. The New Jersey proposal died near the end of 1985, but the New Jersey Chemical Industry Council has succeeded in having an identical bill introduced this year. Additional support is needed to assure passage. The Ohio House passed a Good Sam bill on the last day of 1985 and the Senate will consider the issue early in 1986.

7. Toxic Air

<u>State Regulation</u> - The <u>Connecticut</u> Department of Health has challenged a major new air toxics control program that was recently

announced by the state's Department of Environmental Control. The program would set ambient limits based on TLV's plus a safety factor for 850 chemicals. The Department of Health is pushing for changes in the program to take into account actual health effects of the chemicals. Until the agencies are able to reach an agreement, the air toxics program approval process has been put on hold. Other states which are considering air toxics control regulations include Maryland, Kentucky, and North Carolina.

Policy Development - The State Affairs Committee is actively participating in CMA's effort to develop a new Association program for reducing toxic chemical emissions. Once the program has been approved, the committee will assist other CMA departments in disseminating the program to state interest groups.

8. Chronic Health

Legislation establishing a new system for identifying and protecting workers who are deemed to be at "high" risk of contracting occupational disease is being considered in California. A.B. 990 is strongly opposed by the chemical industry because of its burdensome requirements and high costs. The industry feels that existing programs in the state already accomplish the goals of this bill, and new legislation is unnecessary. The California CIC, along with CMA member companies, is attempting to amend or defeat this legislation.

10. Insurance/Liability

Almost all of the state legislative bodies are working on some aspect of this issue. The most pressing concern is the affordability and availability of insurance coverage. Hearings have been scheduled in many states. The more basic concerns of tort reform are also being reviewed. These concerns will take longer to resolve. They are being worked on by the National Council of State Legislatures and the American Legislative Exchange Council among others.

S. Specific Chemical Research and Advocacy

1. Research and Advocacy Highlights

Alkanolamines. The National Toxicology Program will begin, this February, a 90-day subchronic bioassay on triethanolamine. The Panel will actively track this study.

Benzene. OSHA's proposed revision of the benzene workplace standard was published in the Federal Register on December 10, 1985. OSHA is proposing to reduce the PEL from 10 ppm to 1 ppm TWA with an action level of 0.5 ppm. Comments are due to OSHA on February 14, 1986, and hearings are scheduled in March.

The Benzene Panel is considering health and risk assessment aspects of the proposal, expected variability in monitoring for compliance with a PEL of 1 ppm, feasibility issues, medical surveillance, use of respirators and other industrial hygiene issues.

Butadiene. The Panel filed comments on the risk assessment for butadiene prepared by EPA's Carcinogen Assessment Group (CAG). Panel representative made a presentation on the CAG risk assessment to EPA's Science Advisory Board (SAB). The SAB agreed with many of the Panel's criticisms of the CAG risk assessment and recommended several revisions along lines suggested by the Panel. The Panel also filed comments on a risk assessment prepared by the EPA Office of Toxic Substances (OTS) to support conclusions about occupational exposure to butadiene. Panel representatives subsequently met with John Moore, Assistant Administrator for Pesticides and Toxic Substances, to discuss the risk assessment. Dr. Moore agreed with many of the Panel's concerns. The Panel's comments will be provided to OSHA to assist in preparing a risk assessment for occupational exposure to butadiene.

The OTS risk assessment is the basis for EPA's TSCA Section 9(a) referral to OSHA. Panel representatives met with the OSHA staff and JACA Corporation, OSHA's contractor, to discuss the evaluation of butadiene in response to EPA's referral. The Panel will track this activity at OSHA.

The Panel also contracted with an expert consultant to review the mathematical calculations included in the OTS risk assessment on butadiene. The consultant's report identified several flaws in EPA's approach and recommended alternative procedures. The report has been submitted to EPA. Panel representatives participated in a CMA workshop on risk assessment and made presentations on the EPA risk assessment on butadiene.

The Panel sponsored an audit of the mouse study on butadiene conducted by the National Toxicology Program. The Panel's audit documented the quality control problems experienced during the NTP study and reinforced the Panel's position that the study is unsuitable for use in quantitative risk modeling. Panel representatives also met with NTP and CIIT to review ongoing testing programs for butadiene.

In October 1985, EPA published in the Federal Register an "Intent to List" Butadiene as a Hazardous Air Pollutant under Section 112 of the Clean Air Act. Panel representatives met with the staff of EPA's Office of Air Quality Planning and Standards to review EPA's evaluation of butadiene for possible regulation. The Panel is assisting EPA in trying to realistically determine the emissions of butadiene.

The Panel activities with EPA and OSHA are expected to continue at a high level in 1986.

Cumene. EPA announced proposed testing requirements for cumene under Section 4 of TSCA in a Federal Register notice on November 6, 1985. Manufacturers and processors of the chemical will be required to conduct tests for health and environmental effects.

Health effects testing will include: pharmacokinetics, developmental toxicity, subchronic toxicity, neurotoxicity, oncogenicity and reproductive toxicity (if triggered). To test for environmental effect, the Agency is proposing acute and chronic aquatic toxicity tests on saltwater fish and invertebrates, and biodegradation and volatilization from water.

The Cumene Panel is preparing comments on the proposal. Of particular interest are the findings upon which EPA bases the proposed rule: a potentially unreasonable risk of mutagenic and oncogenic effects; and, a potential for substantial human exposure from manufacturing, processing, use and disposal. The Panel will sponsor further mutagenicity testing to determine if there is sufficient evidence for the first finding and also is closely examining emissions data to see if there is justification for the second. Comments are due to EPA by February 20, 1986.

Butylated Hydroxytoluene. The Department of Public Health, State of Massachusetts, has tentatively decided to delist BHT as a carcinogen from its Substance List. This occurred mainly through the efforts of Dr. Don McGraw of Koppers Company, the BHT Panel Chairman. In addition, Irwin Prager of Uniroyal testified at the Department's Public Hearing on behalf of the Panel. The Department is expected to publish the revised Substance List reflecting this change in January 1986.

Cresols. The Panel is expecting the final TSCA Section 4 test rule this March. In preparation for the rule, the Panel is receiving bids to perform the toxicology testing. A final contractor will be selected and testing will begin once the final rule is issued. The Panel is also tracking the EPA Land Disposal Prohibition Regulation. Cresols are on the initial list for possible land disposal banning.

Dibenzofurans/Dibenzodioxins. The Panel is preparing comments in response to EPA's TSCA Section 4 and 8 proposed rules. The proposal requires the conduct of dioxin and dibenzofuran analyses of various chemical substances.

The Panel filed comments in response to EPA's RCRA proposal to change the listing from "acute hazardous" to "toxic" for incineration residues of several dioxin wastes. The comments argued that EPA should raise the concentration limit for wastes covered by the rule from 10 ppm to 100 ppm.

Ethylene Dibromide. The Panel is waiting for a long-overdue OSHA final rule. The Panel will review the rule once it is published.

Ethylene Dichloride. The EPA announced last October an "Intent to List" EDC as a Hazardous Air Pollutant under Section 112 of the Clean Air Act. The Panel provided comments on the announcement and is further evaluating several of the references given in the announcement. The Panel will further review the health effects and risk assessment on EDC provided in the announcement.

Ethylene Oxide. The Ethylene Oxide Industry Council provided comments to EPA on its recent "Intent to List" EO as a Potential Hazardous Air Pollutant. The EOIC Environmental Task Group is evaluating the EO air emissions developed by EPA. The group is providing EPA with information to realistically estimate EO releases. The Task Group has also reviewed the EPA Human Exposure Model which is used in the Agency's Hazardous Air Pollutant program. EPA is presently surveying the industry to determine episodic releases or excursions from the annual average.

Ethylhexanoic Acid. The Ethylhexanoic Acid Panel met with EPA to discuss the proposed test rule for EHA under Section 4 of TSCA (50 Fed. Reg. 20678). EPA has speculated that dermal exposure to EHA might occur during processing, although manufacturers and major processors have indicated to the Agency that most operations occur under conditions where exposure is unlikely. To bolster its no-exposure argument, the Panel contracted with Temple, Barker and Sloane, Inc. to conduct a survey of handling practices among processors of EHA. The survey responses indicated that dermal contact with EHA during processing is virtually non-existent. Ninety percent of the responders instruct their employees to wear gloves when they may have contact with EHA, and five percent distribute EHA without repackaging. Given these results, the Panel feels that EPA cannot justify a finding that exposure to EHA in the workplace "may present an unreasonable risk of injury."

The Panel will continue to work with EPA to document the position that a No-Test Decision should be made for EHA. EPA is expected to publish its conclusion in the Summer of 1986.

Fluorocarbons. In October 1985 the Fluorocarbon Panel released its report on the production, use, and emissions of chlorofluorocarbons 11 and 12 through 1984. Production of CFC-11 increased from 1,427 million pounds in 1983 to 1,531 million pounds in 1984, according to the Alexander Grant and Company compilation.

Members of the Panel met in early October with Department of State and Environmental Protection Agency officials to review upcoming activities under the United Nations Environment Programme's (UNEP) Committee for the Protection of Stratospheric Ozone. Two economic workshops are being planned for 1986, as well as an EPA/UNEP conference entitled, "Health and Environmental Effects of Ozone Depletion and Climate Change."

The Panel submitted comments to EPA on the August 1985 draft of the Rand Corporation report on "Projected Use, Emissions, and Banks of Potential Ozone-Depleting Substances" (October 16, 1985).

Retirements and reassignments marked the closing months of 1985. In September, long-time Panel member B. Peter Block of Pennwalt retired. He has been replaced both on the Panel and as Chairman of the External Affairs Task Force by Julius Dohany, Director of Fluorochemicals Research and Development for Pennwalt. Hillel Magid of Allied-Signal and Odo Klais of Hoechst Ag were both reassigned to new duties within their companies in December. No plans to replace them have been announced. Also in December, Richard B. Ward, representative from E.I. du Pont and Chairman of the Panel, was transferred to a new position at DuPont. Mack McFarland will replace him as the DuPont representative. The Panel is facing the election of a new chairman.

Glycol Ethers. At an October public course-setting meeting, EPA announced its intent to require testing of three triethylene glycol monoethers (TGE) -- methyl, ethyl and butyl. EPA is proceeding with a single-phase rulemaking. Publication of a Notice of Proposed Rulemaking is expected in May 1986.

Testing requirements will be based on a finding of potentially substantial human exposure. EPA estimates that about 250,000 mechanics are exposed to brake fluids where TGE concentrations range from 60-80% by volume.

Proposed testing for each ether includes: 1) a 90-day rat dermal study with satellite neurotoxicity testing; 2) dermal developmental toxicity studies in rats and rabbits, including a study of behavioral teratology in the rat; 3) Tier One mutagenicity testing and possibly higher; 4) dermal rat and mouse oncogenicity studies (triggered by positive mutagenicity); and, 5) a reproduction study in rats if signs of reproductive organ toxicity are observed in the subchronic study.

The Glycol Ethers Panel is considering alternative testing proposals to the EPA program. The Panel will initiate a dermal limit test study on the TGEs this month. An in vitro skin absorption study on the compounds is also planned.

Hydroquinone. Results from a developmental toxicity study of rats exposed to hydroquinone were submitted to EPA. Testing was conducted at Eastman Kodak's Health and Environmental Laboratories.

Ketones. EPA's Office of Toxic Substances has issued a final rule requiring testing of mesityl oxide under TSCA Section 4(a). The Agency is requiring a mutagenicity battery and 90-day subchronic study. A positive result in one of the mutagenicity tests would trigger higher-tiered mutagenicity testing and an oncogenicity study. All manufacturers, including manufacturers of MO as a non-isolated intermediate, and processors are subject to the test rule. EPA also considers exposure to MO in pesticide formulation to be a TSCA concern.

Concurrent with the publication of the final rule, EPA issued a proposed rule on testing guidelines for the research required in the test rule. Comments are due to EPA by February 3, 1986.

The Ketones Panel will meet this month to review the final rule and develop comments in response to the proposed test standards.

Lubricant Additives. An organizational meeting of companies interested in forming a Lubricant Additives Program was held at CMA on October 22, 1985. Attendees included members of an ad hoc group of lubricant additives manufacturers who organized under CMA's Distribution Committee to address forthcoming pollution control regulations by the International Maritime Organization. The group's interests expanded to discussion of the point where sponsorship of environmental effects testing to support proper shipping classification of the additives. CMA has responded favorably to the request to establish a Special Program. The Lubricant Additives Panel will sponsor an aquatic toxicity testing program and incorporate other activities of the ad hoc group. Meetings of the Panel and Environmental Research Task Group are scheduled this month.

Methylenedianiline. The MDA Panel sponsored a one-day seminar for MDA user representatives. The seminar resulted in general support for expanding the Panel to serve as the central coordination organization for industry participation in the upcoming regulatory negotiations on MDA. Several key trade associations with an interest in MDA decided to join the Panel: National Electrical Manufacturers Association (NEMA); Suppliers of Advanced Composite Materials (SACMA); and The Society of the Plastics Industry (SPI).

The MDA Panel submitted comments in response to two Federal Register notices regarding the establishment of a Federal Advisory Committee on MDA. The Panel submitted the nominations of Roger Daniels (Dow), Ron Lane (Rubicon) and R. Fensterheim (CMA) to the Committee. The Panel also endorsed the nominations submitted by NEMA and SACMA.

The Panel informed OSHA that if all of the industry nominees cannot be accommodated, OSHA should not select the industry nominees to the Advisory Committee. Rather, OSHA should identify the number of seats to be filled by MDA producers and users and allow the industry to determine how the seats will be allocated.

Octylphenol. CMA signed a contract with ABC Laboratories for conduct of a chronic effects study of octylphenol in the rainbow trout. The study is being conducted as the last part of a TSCA Section 4 negotiated testing agreement with EPA.

Phosgene. The Phosgene Panel was given a private tour of the Department of Energy's new Liquified Gaseous Fuels Spill Test Facility. The facility, located about 75 miles from Las Vegas, has been established on a user -fee basis to study the dynamics of accidental releases of hazardous liquids. The Panel is exploring the feasibility of sponsoring research on air dispersion model validation and mitigation devices.

Phthalate Esters. The Consumer Product Safety Commission released the final report of its Chronic Hazard Advisory Panel (CHAP) on di-2-ethylhexyl phthalate (DEHP) in children's products. The CHAP report concluded that while DEHP is an animal carcinogen, it is not genotoxic (does not damage DNA) and the most likely mechanism of action involves a threshold phenomenon. In addition, the CHAP concluded that existing exposure data are inadequate to permit an accurate estimate of risk. Finally, the CHAP suggested that additional research is necessary to accurately assess effects of DEHP on humans.

Following release of the report, the Commission met on December 19, 1985 to consider regulatory action of DEHP in children's products. The Toy Manufacturers of America proposed a voluntary standard on DEHP levels in pacifiers. The Commission agreed to pursue the voluntary standard and meet again in March 1986 to review the progress of standard development. The Phthalate Esters Panel will also participate in the standard development process.

The Phthalate Esters Panel has formed a new work group, as part of the Panel's FDA Task Group. The new Exposure Work Group will develop a program that will supplement FDA food analysis activities concerning phthalates. The Society of the Plastics Industry will actively participate in this effort. The FDA is analyzing milk and beer samples to determine representative DEHP levels. The Exposure Work Group has proposed a program that will test three food types: milk, cheese and meat. Six locations in the United States will be selected, and six products in each food type will be collected from every location. DEHP levels will be measured in each food sample. FDA agreed to participate by identifying the appropriate food brands and locations for collection. If FDA concurs totally with the proposal, testing should begin in February 1986.

The Phthalate Esters Panel filed comments on the TSCA Section 4 Proposed Test Rule on butyl benzyl phthalate (BBP) which were prepared in conjunction with the CMA Environmental Management Committee. Since BBP is also on EPA's Priority Pollutant List, the Agency is requiring under this rule all the testing necessary to develop a Water Quality Criteria Standard. The Panel commented that the existing data base on BBP "may present an unreasonable risk of injury." The Panel also feels that EPA cannot use data needs for the Clean Water Act to justify testing under Section 4 of TSCA. Finally, the Panel's comments point out that the EPA requirements for Water Quality Criteria are excessive, and that the standard test battery should be reduced to reflect the state-of-the-art in environmental testing. The Panel's comments were also presented to EPA at a public meeting on the proposed rule on November 22. The Panel and the EMC will continue to work with the Water Office to develop a more appropriate testing approach.

The Phthalate Esters Panel also provided EPA with comments on the final report on "A Ranking System for 307(a) List of Priority Pollutants." dated August 1985. The report will be the basis for potential removal of chemicals from EPA's Water Priority Pollutant List. The industry has a vital interest in the content and eventual application of the report since any chemical can be listed or delisted as a priority pollutant.

EPA plans to announce its final procedures in May 1986.

Polychlorinated Biphenyls. The Panel is continuing efforts towards the development of a national standard for addressing PCB spills. Various meetings were held with representatives from the National Electrical Manufacturers Association, the Edison Electric Institute, the Natural Resources Defense Council and the Environmental Defense Fund.

The Panel has begun developing its strategy for addressing EPA's initiatives to bring PCB regulations into RCRA.

The Fifth Circuit Court of Appeals granted the Panel's motion to intervene in the lawsuit brought against EPA's new regulations on the use of PCBs in transformers. The petition was granted despite EPA's motion opposing the intervention.

Rubber Additives. The Panel has agreed to conduct a comparative metabolism study of mercaptobenzothiazole and mercaptobenzothiazole disulfide. The study will be conducted at Southern Research Institute. The Panel is in the process of preparing comments in response to EPA's proposed TSCA Section 4 test rule on MBT.

Titanium Dioxide. The Panel last month met with officials from the National Cancer Institute to discuss the Institute's proposed epidemiologic study of titanium dioxide workers. NCI will address the Panel's concerns in the report that it will submit to the Board of Scientific Counselors for approval of the study. The NCI Board will meet in March 1986, and if the approval is granted, the study will begin by the end of the year. The TD industry plans to fully cooperate with NCI during the conduct of the study.

Vinylidene Chloride. The Panel attended an EPA seminar on VDC. Dr.

Cesare Maltoni discussed the toxicology studies performed on VDC. The Panel will continue to track Dr. Maltoni's VDC study.

Water Additives. The Panel was formed in late 1985 to evaluate the National Sanitation Foundation's regulatory program for direct and indirect potable water additives. The Panel is preparing a position paper on organic polyelectrolyte potable water additives. The Panel will participate in the January NSF meeting designed to inform the public on how the regulations will be established.

Zinc Dialkyl Dithiophosphates. The ZDDP Panel recently decided to sunset after four years of conducting an active research and advocacy program. The ZDDP program was organized in 1981. Participating companies sponsored a three-phase research program designed to study the mutagenic potential and possible reproductive effects associated with exposure to this class of oil additives. Seven producers and one user sponsored the $400,000 program.

Research results from Panel-sponsored research were shared with EPA and the Interagency Testing Committee (ITC). These studies were deciding factors in the ITC decision not to recommend ZDDPs for further health or environmental effects testing.

## III. DEPARTMENTAL PROGRAM NOTES

### A. Office of the President

#### 1. International Affairs

Meetings with Foreign Trade Associations. A continuing discussion with the European Council of Chemical Manufacturers Federations (CEFIC) and the Japan Chemical Industry Association (JCIA) has resulted in agreement to meet with both JCIA and CEFIC in the United States during the first six months of 1986. These meetings are reciprocal and will have a broad agenda, focussing on differences between emerging U.S. and foreign systems of labeling to identify toxic materials and safe workplace and handling procedures.

### B. Government Relations Department

#### 1. Grassroots Activities

The Grassroots Program continues to support the Washington based lobbying efforts on Superfund reauthorization. Most of this work is being done through the network of constituent contacts developed over the last two years.

As Superfund legislation moved through the House and Senate, the Grassroots Program continued to request letters and telephone calls from constituents to legislators. The message delivered to the legislators continued to reflect the latest legislative developments.

The response to request for letters, telephone calls, and visits was outstanding. It appears that most companies made every effort to contact a maximum number of Congressmen.

Follow-up letters thanking those Congressmen who supported CMA were also requested. Each Grassroot Manager was given the voting record on the major amendments debate by the full House.

As needed, the Grassroots Program will lobby Congressmen and Senators involved in the Conference Committee on Superfund.

In January a letter from the CMA Chairman of the Board George Sella of American Cyanamid will be sent to each CMA member company requesting increased and new participation in the Grassroots Program.

There will be a meeting of existing and new Grassroots Managers in February 1986. This meeting is designed to introduce all Grassroots Managers to the Grassroots Program. Background information on the new Grassroots issues of the Clean Air Act and Groundwater will also be discussed.

Following the February meeting, companies' Grassroots Managers will be asked to identify constituents living in key congressional districts or states. These contacts will act as the coordinator of CMA Grassroots activities in their area.

The Grassroots Program also plans to develop coalition efforts with other chemical associations, other industry associations, and state chemical councils wherever possible to lobby on the Clean Air Act and Groundwater issues.

## C. Technical Department

Hazardous Waste Testimony. On January 31, 1986, in Albany New York, Dr. Cox will present CMA's testimony on Hazardous Waste Management in the chemical industry.

1986 Spills Conference. Plans are almost completed for the 1986 spills conference, which will be held May 5-8 in St. Louis, MO.

Chemical Referral Center. The Center began operations on schedule in December. Business is still slow but growing as more people learn that the telephone lines are now open.

D. Office of the General Counsel

Insurance. The Office has hosted a series of meetings with insurance representatives of several member companies which has culminated in a proposal to the Executive Committee that CMA establish a Special Committee on Insurance. The two primary purposes of the Special Committee would be to recommend to the Executive Committee CMA advocacy positions with the government on insurance specific issues and to host a biannual open forum for member insurance representatives to share information on the availability of insurance to the industry.

The Office has also represented the Association at meetings of various Washington based organizations on the related issues of insurance availability and liability reform.

Government - Industry - Environmentalists Meeting on Alternatives to Litigation. The Office represented the Association at an October meeting at the Ausable Club in New York, of senior lawyers and other officials of EPA, the Department of Justice and several environmental organizations and other individuals knowledgeable about alternatives to litigation. This first two-day, exploratory meeting, hosted in part by the Environmental Law Institute, permitted the attendees to share information on the history and disposition of their respective organizations to pursue alternatives to litigation.

Specifically identified as an arena worth the attention of the respective organizations was litigation alternatives in Superfund generally, and Superfund enforcement specifically. A second meeting is scheduled for January at Belmont House in Maryland where topics for discussion will include citizen enforcement of the environmental laws and potentials for negotiated rulemaking.

E. Communications

A special task group of the Communications Committee met to discuss the issue of Risk communication and the impact of risk perception on public demands for government intervention.

The Community Information Programs Task Group conducted an interview program with the National Association of County Agricultural Agents at its annual meeting. Five industry representatives from five member companies taped 11 hours with 22 newspapers and 39 radio stations with an estimated audience of more than one million. The task group placed Charles M.

Kittrell, executive vice president, Phillips Petroleum, on the annual meeting program.

At the National Association of Farm Broadcasters convention, 13 industry representatives from 11 companies were available for interviews. Fifty-three broadcasters taped programs for an audience estimated at 100 million.

The CMA Issues Briefing Book is being revised to reflect such new priorities as toxic air, groundwater, CAER/NCRIC and to eliminate some dormant issues. The book is distributed to more than 1,300 CMA members, with many companies duplicating and distributing it in quantity.

CMA
BD-1/27/86

EXHIBIT H

## ADMINISTRATIVE RECOMMENDATIONS

### BACKGROUND

With the promotion of Mr. Raymond J. O'Bryan to the position of Controller at CMA, it is necessary that Mr. O'Bryan's name replace that of Mr. Agnew as an authorized signer on the Association's commercial checking account. The addition of Mr. Van Vlack, the Corporate Secretary, as a fourth authorized signer should facilitate processing and reviewing disbursements while maintaining good internal control.

### RECOMMENDATION

That the Association's commercial checking account at National Savings and Trust (No. 0210-44030) may be drawn on by check signed by any two of the following: Robert A. Roland, President; Gary C. Herrman, Vice President-Treasurer; Charles W. Van Vlack, Corporate Secretary; or Raymond J. O'Bryan, Controller. The facsimile signature of Robert A. Roland may be used to countersign checks drawn by, Robert A. Roland, Gary C. Herrman, Charles W. Van Vlack or Raymond J. O'Bryan (not to exceed $10,000 per check).

### ACTION REQUESTED

Approval of Recommendation and Resolution A.

### BACKGROUND

The current procedures requiring the manual signature of the President or Treasurer for disbursements from the Association's imprest payroll account are burdensome and time consuming. Adequate control already exists to permit use of a facsimile signature for such disbursements.

### RECOMMENDATION

That the Association's payroll checking account at National Savings and Trust (No. 0120-43099) may be drawn on only by check signed by one of the following: Robert A. Roland, President; Gary C. Herrman, Vice President-Treasurer; or Robert A. Roland/facsimile.

### ACTION REQUESTED

Approval of recommendation and Resolution B.

### BACKGROUND

Through recently passed legislation, i.e., the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), the Deficit Reduction Act (DEFRA), and the Retirement Equity Act (REA), Congress has imposed numerous additional requirements for continued tax qualification of pension and profit-sharing plans. The IRS has not yet issued regulations implementing all th new legislation and regulations that have been issued have not yet been finalized. Congress also may enact new legislation changing the requirements for maintenance of tax qualified status. Because it is as yet unclear what requirements must be met in order to maintain tax-qualified status under the new tax laws, IRS may request additional amendments to the Plans during the determination letter process. Additional amendments may also be needed to comply with any future changes in the tax laws. Accordingly, an expeditious method of amending the 401(k) Plan and the Pension Plan to maintain tax qualified status is needed.

At its October 18, 1985 meeting, the CMA Employee Benefits Committee directed staff and pension counsel to prepare a resolution for Board approval to expand the authority of the President to make such changes.

RECOMMENDATION

That the President be granted authority, on advice of pension counsel, to authorized amendments to CMA's qualified plans to the extent necessary to maintain their qualified status. Such amendments would be subsequently, reported to the Employee Benefits Committee and Board for Review.

ACTION REQUESTED

Approval of Recommendation and Resolution C.

Attachments

CMA
BD-1/28/86

EXHIBIT I

PROPOSED MTN POSITION

BACKGROUND

The Administration has moved strongly to counter Congressional anger about import competition and foreign markets closed to U.S. exports. The President proposed on September 23 a long list of things he will do administratively and requests he will make of the Congress for legislation. Among the proposals will be a request for authorization of a new round of multilateral trade negotiations (MTN's) under the General Agreement on Tariffs and Trade (GATT).

Important sections of the business community and the farmers have been pressuring the Administration for such broad scale bargaining for several years. It is essential, they believe, to resolve serious trade problems they have on a worldwide basis. In anticipation of this, the President's Trade Representative has strongly promoted a new MTN (like the Kennedy Round of the 60's and Tokyo round of the 70's) with other countries. It now appears that enough GATT members agree and the President needs to prove his commitment by obtaining Congressional approval to proceed. Key bills in the Senate and House have an MTN authorization provision. They will be taken up early in 1986.

RECOMMENDATION

The CMA International Trade Committee seeks to emphasize three issues in a new MTN: intellectual property rights investment policy and tariff cutting. With a position already approved by the Board on the first two issues, approval of a tariff cutting policy was requested the Board on September 10. The proposal was tabled, without prejudice, to allow the ITC to revise it after reviewing comments by Board members.

The resulting, proposed policy and statement of principles is attached. It calls for a sound U.S. negotiating policy, a better GATT dispute settlement procedure, limited tariff cutting, and resolution of investment and intellectual property rights difficulties in other countries.

A copy of the full, recommended ITC policy is a attached.

ACTION REQUIRED - Approval of attached position.

CMA

EC-1/27/86

BD-1/28/86

CHEMICAL MANUFACTURERS ASSOCIATION
STATEMENT OF PRINCIPLES
CONCERNING
UNITED STATES PARTICIPATION IN A
NEW ROUND OF MULTILATERAL TRADE NEGOTIATIONS (MTN)
UNDER THE GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT)

In 1986, the United States and other GATT signatories are expected to enter into a new Round of MTN in an effort to further expand world trade.

CMA believes the new Round should address a number of issues which are crucial to the long range competitive position of the U.S. chemical industry. The emphasis should not be on simply cutting tariffs, but rather on efforts to eliminate existing trade barriers. These trade barriers include foreign market access, certain tariffs, trade distorting foreign investment practices, ineffective protection of intellectual property rights, and the lack of an effective international discipline for settling disputes related to international trading rules.

The attached statement of principles for U.S. participation in the new Round addresses each of these issues.

Attachment

CHEMICAL MANUFACTURERS ASSOCIATION
STATEMENT OF PRINCIPLES
CONCERNING
UNITED STATES PARTICIPATION IN A NEW ROUND
OF MULTILATERAL TRADE NEGOTIATIONS (MTN)
UNDER THE GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT)

## U.S. NEGOTIATING POLICY

The new round of MTN must foster the development of sound trading and investment practices. U.S. participation in the MTN should include as priority objectives the elimination of trade distorting practices and the expansion of U.S. export opportunities. The reduction of U.S. tariff rates should not be among the primary U.S. negotiating objectives for a new MTN.

The international trade interests of the United States should be given consideration at least equal to foreign policy concerns in negotiating agreements during the MTN. Foreign policy concerns, other than those of a national security nature, should not effect decisions on U.S. trade policy.

Adequate and timely opportunities should be provided for U.S. chemical industry input and review during the process of establishing negotiating objectives as well as during the negotiations themselves.

Ample opportunity should also be provided for the private sector to comment, and for Congress to debate and amend any tentative agreements made in the negotiating process, before the negotiated agreements are submitted to the Congress for final approval.

The MTN authority should not restrict the President from conducting separate trade negotiations with other countries during the MTN. In addition, the Administration should not impair the implementation and timely and aggressive resolution of actions brought under U.S. trade remedy laws during the MTN.

## GATT DISPUTE SETTLEMENT PROCEDURES

GATT dispute settlement procedures must be improved to include binding, time-certain requirements for the resolution of disagreements on issues covered by GATT rules. Resolution of disputes already taken to GATT should be the first step in this process.

## FOREIGN MARKET ACCESS

GATT signatory countries should be required to grant U.S. exporters fair access to their markets without unreasonable barriers or conditions, in exchange for their retaining relatively free access to U.S. markets.

## TARIFF NEGOTIATIONS

Although the emphasis of a new Round should not be on tariff cutting, the reduction or even elimination of tariffs on certain chemical products may be appropriate, while reductions of tariffs on certain other chemical products may impose an undue burden on U.S. manufacturers. Any reductions which are proposed should, therefore, be well-justified.

In the interest of reaching a balanced and equitable trade and tariff agreement, the United States should negotiate changes in chemical tariffs only on the basis of request lists, rather than imposing formula cuts across the board, or automatically eliminating tariffs below certain levels.

Also, any U.S. plan to reduce or eliminate chemical tariffs should include provisions enabling affected industries to obtain exceptions for import sensitive products.

In addition, reduction or elimination of chemical tariffs should not be offered in exchange for concessions in non-chemical sectors.

These conditions should be included in any legislation authorizing U.S. participation in the MTN, and specifically in legislative language providing tariff negotiating authority for a new MTN Round.

## FOREIGN INVESTMENT PRACTICES

A GATT code on foreign investment should be negotiated. Such a code should be based on national treatment for foreign investments and should ensure the elimination or substantial reduction of trade-distorting foreign investment practices, including:

- o prohibitions or restrictions on foreign investment in certain economic sectors, such as chemicals

- screening of foreign investment proposals by government agencies and limitations on the amounts and percentages of equity that can be owned by foreigners

- performance requirements, including mandated local purchase of equipment, supplies and services, and the share of production which must be dedicated to exports

- limitations on royalties and licensing

- limitations on repatriation of earnings.

## INTELLECTUAL PROPERTY RIGHTS

U.S. negotiators should seek binding commitments from foreign governments not to use inadequate intellectual property laws to distort international trade. As part of these commitments, agreements should be negotiated not only to improve the protection afforded patents, trademarks and copyrights, but also to improve the protection afforded in practice to proprietary or confidential information and trade secrets so that foreign nationals operating in other countries may exercise and obtain enforcement of their intellectual property rights in those countries.

EXHIBIT J

# CMA POSITION ON THE REAUTHORIZATION OF THE HAZARDOUS MATERIALS TRANSPORTATION ACT (HMTA)

## Problem

The federal government has been losing the strong central authority to regulate the movement of hazardous materials. An increasing number of state and local rules now restrict the free flow of these commodities. Such restrictions are manifested in many different forms, including: permits, routing, prenotification, equipment specifications, driver licensing and hazard identification. In exchange for giving up their right to impose local fees to support state and local response capabilities to transportation emergencies involving hazardous materials and other operation requirements, state and local governments are demanding funding to improve their response to transportation incidents involving hazardous materials.

## Objective

Strengthen the HMTA to give DOT the ability to quickly review and rule on local and state ordinances that impede the interstate movement of goods. Improve the ability of communities to plan for and respond to hazardous materials transportation emergencies. Such improvements should not be funded with a new "transportation superfund", but rather should take into account private initiatives such as NCRIC and CAER to respond to state and local needs.

## Background

The Hazardous Materials Transportation Act (HMTA) was originally passed in 1974, and reauthorized in 1978 and again in 1982. In the last round of hearings on the HMTA reauthorization, industry pressed for national uniformity of regulations. This was strongly opposed by representatives of state and local government unless industry agreed to address their concerns about local emergency response capabilities.As a result, Congress refused to take a substantive position addressing industry's concerns, or those of state/local government. Following the 1982 hearings a coalition of industry and state and local representatives was formed to forge consensus modifications to the HMTA that preserve the industry's interest in the free flow of commodities between states and that address the needs of state/local jurisdictions to respond adequately to hazardous materials emergencies. Unfortunately this Coalition adopted the position that a special fund based on an industry tax should be included in the HMTA t pay for training and equipment for state/ local hazardous materials em rgency response teams. The fund was estimated at $20 million dollars but that is unrealistically low if equipment is included in the fund objectives. We are concerned that the new taxes would also be directed at the "deep pockets" rather than the whole hazardous materials transportation community. We are also concerned that some states or localities would refuse to accept money from a federal fund and elect to initiate their own tax on industry.

Currently, the fund concept is supported by this "Uniformity Coalition", the National Hazardous Materials Technical Advisory Committee (an advisory committee to DOT), the API, the American Trucking Association , the National Association of Towns and Townships and the National Conference of State Legislatures. The position taken by shipper and carrier supporters is that a "small federal fund" would be better than many state and local fees.

Recommendations:

Support reauthorization of the HMTA in this Congress. The reauthorization should strengthen the authority of DOT in preempting local and state ordinances that impede the flow of hazardous materials through fees, bans, prenotification, or unreasonable routing restrictions. At the same time we would support efforts to improve the efficiency and effectiveness of the federal government in providing training for local agencies to respond to hazardous materials emergencies. The federal program should recognize the contribution of voluntary industry efforts.

Oppose the institution of another fund to provide training and equipment for emergency responders on the basis that the training is generally available and could be readily augmented by federal programs in cooperation with expanded industry efforts, if necessary. Equipment needs are being met by industry through direct cooperation in the establishment of local emergency response contingency plans and mutual aid programs such as CMA's CHEMNET.

See Attachment I for specific recommendations.
See Attachment II through IV for additional background.

Action Required

Approval of recommendation

CMA
EC - 1/27/86
BD - 1/28/86

ATTACHMENT I

CMA POSITION ON ISSUES
RELATIVE TO THE REAUTHORIZATION OF HMTA

There are generally twelve areas being considered by the National Hazardous Materials Transportation Advisory Council (an advisory committee to DOT), the Office of Technology Assessment, and the Hazardous Materials Coalition for amending the Hazardous Materials Transportation Act. These twelve areas and the recommended direction CMA should take on them are as follows:

(1) Hazardous Materials Regulations Must Be Uniform

CMA supports the recommendation that the regulations governing the transportation of hazardous materials should be nationally uniform. Differing regulations at the federal, state and local levels for such transportation are counterproductive to the safe movement of hazardous materials.

While the existing language of the Hazardous Materials Transportation Act clearly authorizes the Secretary of Transportation to preempt inconsistent state and local regulations, the process for obtaining such a ruling has not worked to the satisfaction of government, industry or the public. DOT "inconsistency rulings" should not be overturned by courts unless found to be arbitrary and capricious. DOT should consider both the "inconsistency" criteria and the "nonpreemption" criteria in a single ruling. These changes to the inconsistency process will reduce the time and expense associated with determining the lawfulness of state and local restrictions, to the benefit of DOT, states, localities, industry and ultimately to the benefit of safety.

CMA agrees with the recommendation that Congress should clearly define the specific roles of federal, state and local governments regarding the development of hazardous materials transportation regulations. In an effort to achieve a nationally uniform regulatory scheme the federal government, through DOT, should be solely responsible for promulgating hazardous materials transportation regulations after taking into consideration the input of affected parties, including industry and other governmental agencies. State and local regulations should only be promulgated in areas DOT has not addressed and where states and localities have a unique and legitimate need to regulate. CMA further believes that state and local government should have the primary responsibility for enforcing these national hazardous materials transportation regulations.

(2) Data Base and Regional Flow Patterns

CMA agrees with the recommendation that a data base sh uld be established to determine the regional flow patterns for hazardous materials. We further agree that such information should be limited to what is necessary for determining the appropriate level and placement of emergency response training and equipment. It is important that the information required for the development of this data base is limited to those hazard classes and materials that have the greatest potential for causing problems. This will eliminate the likelihood that government will be saturated with superfluous information, and will focus the nation's emergency response capabilities to those areas where they are needed most.

To the extent possible, the party most readily able to supply the information (whether shipper, carrier, DOT or state/local authorities) should be the party required to supply it. Also, existing sources of information and sampling techniques (e.g., DOT incident reports, waybill sample) should be considered before establishing new or additional information requirements.

Finally, commercially sensitive information should not be required.

(3) National Emergency Response Awareness Program

While CMA wholeheartedly agrees that the public must be aware of their role when an accident occurs involving hazardous materials, we further believe that there should be a shared government/industry responsibility to let the public know what safeguards and mechanisms currently exist to minimize the potential for problems associated with the transportation of hazardous materials. The actual involvement of industry in this area, which is extremely good, should be conveyed as a part of this public awareness campaign.

(4) Guidelines for Hazardous Materials Incident Planning, Training and Equipment

CMA is committed to the development of contingency plans for responding to emergencies involving hazardous materials. These plans should emanate at the local level by bringing together the resources of emergency response officials, federal, state and local governments, and industry. CMA and its membership have formally embarked on two major programs that are designed to meet this objective. These programs are the Community Awareness and Emergency Response Program (CAER) and the National Chemical Response and Information Center (NCRIC).

From an industry perspective, chemical manufacturers have been very progressive in assisting emergency response officials in the development of contingency plans and in making detailed support information and equipment readily available. We intend to continue of efforts in this area, and we encourage other industries associated with the movement of hazardous materials to embark on similar safety initiatives.

(5) Registration Program

CMA would not object if DOT, for good cause, decided to exercise its current statutory authority to establish a registration program for shippers and carriers of hazardous materials, as well as manufacturers of containers for hazardous materials. In determining the need for a registration program, DOT should focus its emphasis on product flow identification and enforcement. As explained below, a registration program should not be used for the collection of funds for an Emergency Response Fund.

(6) Establish A Fund

CMA cannot endorse the establishment of a federal emergency response fund without a clearer understanding of the need for a fund, the amounts involved, how the fund would be administered, and how the effectiveness of the fund would be measured.

CMA does not believe that the needs of state and local emergency responders have been adequately assessed in terms of training and equipment. Under issue (2), Data Base and Regional Flow Patterns, DOT may develop information pertaining to the movement of hazardous materials. This information on where hazardous materials are moving should then be compared to where public and private emergency response capabilities exist. Only then can an objective assessment be made of the needs of the emergency response community. Simply making money available from the federal government without an adequate assessment of the needs of the nation is not an appropriate solution to developing a coordinated national emergency plan for hazardous materials accidents.

Further, over 300 states and localities currently have emergency response capabilities for hazardous materials spills. Existing state and local emergency response programs, coupled with voluntary industry assistance, should be considered by DOT in assessing the overall needs of the nation in terms of emergency response assistance.

(7) Pre-notification

CMA does not support the establishment of shipment-by-shipment pre-notification requirements for hazardous materials at the state or local level. State and local shipment-by-shipment pre-notification requirements are counterproductive to the safe transportation of hazardous materials. They can cause unnecessary delays and massive paperwork submissions that are of questionable value to anyone. CMA would not object to prior notification to a central state authority of generic chemical flow, although we believe such notification should not be necessary more often than once every twelve months. Further, much of this information would have to be supplied by transporters since they select the routes that are being used based on their overall shipper/consignee geographic distribution.

(8) Local Permit, Registration and Licensing Fee

As discussed in item 6, CMA does not believe the need for an Emergency Response fund has been demonstrated. As with the federal emergency response fund, CMA believes that local permit, registration and licensing fees should not be permitted unless unique local circumstances justify their need. In the assessment of the need for these local fees, industry expertise and resources should be accounted for.

Money for enforcement of hazardous materials regulations is currently available from the federal government to those states that have adopted the federal regulations. CMA supports this funding approach for enforcement.

(9) State and Local Governments Adopt and Enforce Federal Hazardous Materials Regulations

CMA supports the adoption and enforcement of the federal hazardous materials regulations by state and local governments. We recognize that the federal government does not have the necessary resources and personnel to adequately police the hazardous materials shipping and transportation communities. Therefore, in order to enhance the safe transportation of these products, CMA believes it is essential for state and local enforcement personnel to ensure industry compliance with the national regulatory scheme.

(10) Good Samaritan Law

CMA supports the recommendation that all states should enact Good Samaritan legislation to protect the liabilities of those responding to emergencies involving hazardous materials. Enactment of such legislation is essential to enhance industry response to emergencies involving hazardous materials.

(11) Technical Assistance In The Industry

The chemical industry is committed to providing technical assistance to federal, state and local officials that are responsible for protecting the welfare of the public. Programs such as CMA's Community Awareness and Emergency Response (CAER) and the National Chemical Response and Information Center (NCRIC) are prime examples of this commitment. We believe these programs should limit the need for establishing duplicative federal state and local emergency response initiatives. We welcome other sectors of the hazardous materials transportation community to contribute their ideas and efforts in building upon these programs and communicating their availability.

(12) Right To Know

CMA agrees that it is industry's responsibility to provide product specific information to emergency response personnel so they can handle emergencies involving hazardous materials in a timely and appropriate manner. CMA currently provides much of this information through its CHEMTREC system, and subsequent contact with individual shippers. In addition, the DOT Emergency Response Guidebook is a valuable source for initial responders.

Regarding the distribution of general health and safety information about chemicals, it is CMA's policy that member companies will furnish to a central state authority Material Safety Data Sheets for each product manufactured in the state. In addition, our members are committed to furnishing copies of MSDSs to individuals, such as transporters, upon request. Further, CMA's new Chemical Referral Center will enable callers to obtain chronic health information from the manufacturer of the product in question.

With respect to transportation, CMA believes that DOT should mandate that Emergency Response Guidebooks be kept at terminals to inform employees about the acute health hazards associated with the chemicals they are handling. In the unlikely event that an employee is exposed to a chemical that is being transported, contact with the appropriate shipper or CMA Chemical Referral Center will produce the necessary chronic health hazard information. CMA also would not object to the Guidebook being carried in each truck cab and rail engine. Exposure to hazardous materials in-transit is rare, however, if a leak should occur acute health hazard information is essential.

EXHIBIT K

DISTRIBUTION COMMITTEE

1984-85 Oral Report to the CMA Board

R. A. Christman, Committee Chairman

January 27, 1986

THE DISTRIBUTION COMMITTEE HAS HAD AN EXCEPTIONALLY BUSY, YET OVERWHELMINGLY REWARDING YEAR, DURING 1985. AS WITH THE REST OF THE CHEMICAL INDUSTRY, THE EVENTS WHICH TOOK PLACE LAST DECEMBER IN INDIA HAVE LED TO A SIGNIFICANT INCREASE IN BOTH INTERNAL AND EXTERNAL SCRUTINY OF OUR OPERATIONS. NO LONGER COULD WE REST COMFORTABLY WITH MAINTAINING THE STATUS QUO. EVEN THOUGH THE SAFETY RECORD FOR THE TRANSPORTATION OF CHEMICALS HAS BEEN EXTREMELY GOOD, INDUSTRY MUST CONSTANTLY EXPEND A GREAT DEAL OF EFFORT TO ENSURE THAT PROBLEMS ARE KEPT UNDER CONTROL.

WE ARE NOT SO NAIVE TO SUGGEST THAT ACCIDENTS IN TRANSPORTATION WILL NOT OCCUR. THE VERY NATURE OF THE TRANSPORTATION ENVIRONMENT PRESENTS MANY POTENTIAL PROBLEMS THAT ARE NOT UNDER THE DIRECT CONTROL OF OUR REPRESENTATIVES. TO MINIMIZE THE MAGNITUDE OF AN ACCIDENT, THE DISTRIBUTION COMMITTEE AND STAFF HAVE GONE TO GREAT LENGTHS TO IMPLEMENT THE COMPONENTS OF THE NATIONAL CHEMICAL RESPONSE AND INFORMATION CENTER.

NCRIC, AS YOU KNOW, IS DESIGNED TO PROVIDE EMERGENCY RESPONDERS AND THE PUBLIC AS A WHOLE WITH INFORMATION ABOUT CHEMICALS TO SATISFY THEIR RESPECTIVE NEEDS. THERE ARE FOUR KEY ELEMENTS TO THE NCRIC PROGRAM: AN EXPANDED CHEMTREC; A MUTUAL AID PROGRAM TITLED CHEMNET; THE CHEMICAL REFERRAL CENTER; AND FIRST RESPONDER TRAINING. I AM PLEASED TO ANNOUNCE THAT AS WE PROMISED LAST JANUARY ALL ELEMENTS OF THIS PROGRAM BECAME OPERATIONAL IN 1985.

CHEMTREC HAS BEEN MODERNIZED WITH A NEW COMPUTER SYSTEM THAT WILL SPEED THE PROCESSING OF EMERGENCY INFORMATION, AND WILL ENABLE MEMBER COMPANIES AND RESPONSE PERSONNEL AT AN ACCIDENT SCENE TO RECEIVE A HARD COPY PRINTOUT OF APPROPRIATE RESPONSE DATA. THE ACTIVITY AT CHEMTREC CONTINUES TO EXPAND WITH 31,394 CALLS RECEIVED IN 1985, OF WHICH 6,898 RELATED TO EMERGENCIES. THIS LARGE AMOUNT OF USAGE DEMONSTRATES THAT CHEMTREC REMAINS ONE OF THE MOST RESPECTED AND WELL REGARDED CMA EFFORTS BY THE PUBLIC AND EMERGENCY RESPONSE ORGANIZATIONS.

CHEMNET, THE CHEMICAL INDUSTRY'S MUTUAL AID SYSTEM, NOW HAS 59 CMA MEMBERS PARTICIPATING. THESE COMPANIES COMBINED WITH THE 3 COMMERCIAL EMERGENCY RESPONSE COMPANIES UNDER CONTRACT TO CMA HAVE IDENTIFIED A TOTAL OF 121 RESPONSE TEAMS COVERING VIRTUALLY THE ENTIRE UNITED STATES THAT CAN RESPOND TO CHEMICAL TRANSPORTATION ACCIDENTS.

THE CHEMICAL REFERRAL CENTER, WHICH HAS BEEN SET UP TO RESPOND TO NON-EMERGENCY INQUIRIES ABOUT CHEMICALS, CURRENTLY HAS INFORMATION ON OVER 25,000 CHEMICALS FROM 119 PARTICIPATING COMPANIES, CALLERS ARE DIRECTED TO APPROPRIATE COMPANY CONTACTS FOR GENERAL HEALTH AND SAFETY INFORMATION ABOUT SPECIFIC PRODUCTS.

THE FINAL COMPONENT OF THE NATIONAL CHEMICAL RESPONSE AND INFORMATION CENTER, FIRST RESPONDER TRAINING, HAS BEEN AN OVERWHELMING SUCCESS. THE DISTRIBUTION COMMITTEE HAS PUT TOGETHER A LENDING LIBRARY OF TRAINING FILMS WHICH HAVE ALREADY BEEN VIEWED BY 18,875 MEMBERS OF THE EMERGENCY RESPONSE COMMUNITY. IN ADDITION, A CMA TRAINING FILM ENTITLED "FIRST ON THE SCENE" HAS BEEN COMPLETED AND IS RECEIVING VERY HIGH REVIEWS FROM THE TECHNICAL COMMUNITY.

WHILE THESE AND OTHER SAFETY RELATED PROGRAMS RECEIVED A GREAT DEAL OF OUR MEMBER'S ATTENTION, THE DISTRIBUTION COMMITTEE HAS ALSO BEEN VERY ACTIVELY INVOLVED IN ENHANCING THE ECONOMIC POSTURE OF THE CHEMICAL INDUSTRY.

IN THE RAIL TRANSPORTATION AREA THREE MAJOR DEVELOPMENTS HAVE OCCURED. CMA HAS SUCCESSFULLY NEGOTIATED AN ATTRACTIVE AGREEMENT WITH THE RAILROADS TO PROVIDE A FAIR RETURN TO TANK CAR OWNERS FOR THE RAILROADS USE OF THESE VEHICLES. THE TOTAL AMOUNT OF RETURN TO ALL TANK CAR OWNERS IS SOME $555 MILLION ANNUALLY. CMA WAS ALSO SUCCESSFUL IN GETTING THE RAILROADS TO AGREE ON A MECHANISM FOR THE ICC TO INVESTIGATE ANY DEVIATIONS BY THE RAILROADS ON THE NATIONAL ALLOWANCE SYSTEM.

IN THE SECOND MAJOR RAIL DEVELOPMENT, CMA PLAYED A PRINCIPLE ROLE IN OBTAINING A FAVORABLE RULING FROM THE INTERSTATE COMMERCE COMMISSION ON RAIL-TO-RAIL COMPETITIVE ACCESS ISSUES. WITH MANY CHEMICAL PLANTS CAPTIVE TO A SINGLE RAILROAD, THESE NEWLY PUBLISHED RULES WILL PROVE VERY BENEFICIAL IN YOUR ABILITY TO NEGOTIATE COMPETITIVE RAIL TRANSPORTATION RATES.

EXHIBIT L

Communications Committee Report

to CMA Board

January 28, 1986

A year ago when John Hussey of Monsanto gave the committee's report, there wasn't a person in this room -- or in this industry -- who wasn't shocked by the tragedy that occurred in India in December of 1984.

To an industry already under public scrutiny, this shock added the elements of plant safety and operating competence to the public's concerns about us. To determine the extent of the public's feelings about chemicals, Cambridge Reports recently conducted a national opinion survey.

The results of that survey were not encouraging.

Without going into all the details, the public's view of the chemical industry was fairly straightforward: We are perceived as the number one environmental risk to society and the number

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Report by M. E. Thompson, Amoco Chemicals Company, to CMA Board of Directors, January 28, 1986 two safety risk, with the nuclear power industry ranked as number one. More than 70 percent of those questioned feel that a Bhopal-type accident is likely to happen in the U.S. By overwhelming majorities, the public supports legislation to create right-to-know laws, mandatory emergency planning, and buffer zones around chemical plants.

Perhaps one of the more disturbing findings was that 64 percent of those polled aren't so sure that the benefits they get from chemicals are worth the risk. And about 60 percent of the public wants more regulation of the chemical industry even if such regulation results in higher prices for consumer products.

Further, it will come as no surprise to you that we rank last among basic industries in terms of public favorability -- below even the nuclear power and alcohol industries.

However, not everything the Cambridge survey found out was negative.

As an example, the public is of mixed emotions as to the role that perceived corporate greed plays in our environmental performance. About 51 percent felt that we're just out to make a buck regardless of the environmental consequences. Yet 42 percent disagreed with that statement.

The best news is that three quarters of the public feels that the chemical industry is making at least some effort to ensure that a Bhopal-type accident doesn't happen in the U.S. While that's hardly great news, it does show that the public is at least somewhat aware of our excellent safety record and the things we're doing to improve it even further.

We also learned that while the public is concerned about spills and leaks and accidents, they feel that it is the long-term health effects that are most important. So as we take steps to ensure against accidents and crises, we should not lose track of the larger issue -- namely, that the public is very concerned about chronic health effects from exposure and use of chemicals.

In implementing a strategy to rebuild our reputation, we should realize that there is little opportunity to do something dramatic to showcase our efforts. As H. Clark said in Washington recently, "We haven't been caught doing good." There is little we can do of a positive nature that will make page one or the evening news. And that's probably good. With our luck, we'd have Dan Rather signing off with "and this is the 10th straight day without a major chemical mishap."

Instead, we must rebuild our reputation the slow way -- with a failsafe operating and safety performance, sincere attention to the public's concerns, and a credible communications effort. In other words, do good and THEN tell about it.

-toring our reputation, we need a goal. On a public -dence scale of 1 to 10, it's unlikely that we'll achieve the -r 8 level that we enjoyed in the 50s and 60s, when we were regarded as being the source of miracle products. In fact, a reachable target would be a 4 or a 5 -- that gray middle ground of public tolerance that will permit us to operate our businesses in a reasonable manner. The public always will be concerned about our industry and our products. We'll have to live with that. Our goal should be to answer the public's fears about us so that their reasonable concern doesn't translate into extreme actions.

In responding to Bhopal, the industry wisely steered clear of programs that would be seen merely as public relations gestures. By creating the CAER and NCRIC programs, CMA has given the industry an activist response that involves an operating commitment by line management. These programs are comprehensive and directed four-square at the public's major concerns about the industry. Not coincidentally, they also provide an excellent communications opportunity at the local and state level that we must use to our advantage.

The current state of the industry's media relations and communications efforts is one of those good news/bad news situations. The good news is that the intense media attention to our business has enabled us to establish reasonably good relationships with hundreds of media people. We now have access to these people as never before. The bad news, of course, is that it took some tragic events to bring this about.

When I say intense media attention, I mean that literally. The number of media calls fielded by CMA in 1985 reached 10,000. That's an 11 percent percent jump from 1984. At Amoco we received 26 percent more media calls about our chemicals business in 1984-85 than in 1982-83. I'm sure that each of your companies would report similar results.

Despite this media attention and despite the negative news items of 1985, a professional view is that our treatment by the media could have been a lot worse. While each member of the communications committee can recall a few horror stories from 1985, we agree that, on balance, the industry received fair treatment. This occurred as a natural result of increased personal contact between the media and the members of our industry. In many instances, our open and candid response during these negative incidents helped establish credibility with the media and showed our concern and our reasonableness.

As a result, we have created relationships with some media people that will be a major communications asset for us in the future.

Speaking of assets, our future communications activities will benefit from the success of the CMA Superfund editorial contact program. This program, in which a number of you participated, was a major communications achievement. It succeeded because CMA adopted a responsible and activist position on Superfund and took that position on the road with great persistence and thoroughness. The results -- in terms of editorials favorable to CMA's position -- were nothing short of incredible. The editorial contact program also proved once again that the industry's greatest communications assets are the people in this room and your peers in other CMA member companies. To those in the media, you ARE the chemical industry.

So, to answer the question "are things getting better with the media?", I would have to answer a qualified yes. We have established contacts and credibility. Opportunities exist for substantially improved media coverage of our industry in the future.

Looking to that future, the communications committee is convinced that CMA's communications objectives will be best achieved by concentrating on solving current problems with current resources. While we are concerned about the industry's long-range goals, we feel that we can accomplish many of those goals through properly directed attention to today's problems.

s a result, we will concentrate on the following areas in the near future:

We will focus our support on the CAER/NCRIC programs, especially now that many of the emergency plans have been prepared and are ready to take to the public. Our October open meeting was a CAER communications seminar that was very well attended. We will continue to recruit individual companies to actively support CAER communications and we will work with CMA staff and the state chemical councils in their CAER efforts.

We have set up a pilot program for communications committee members to help improve state chemical council communications programs. Three states are in our first batch that will begin this year. If successful, this approach could be expanded to additional states in the future.

We will continue to support CMA and the CICs in their legislative advocacy efforts. As we've seen, a solid communications program can help the industry reach its legislative goals.

We will encourage increased activity by chemical company senior executives in communications activities. You can expect us to continue to come to you with media contact opportunities.

And we will promote a rational public dialogue on the subject of risk perception. Working with Bob Roland, we recently held a risk perception seminar for senior communications executives of a dozen major chemical companies. The result was an interesting exchange of views that should encourage a more informed public discussion of this important subject.

Before closing, I'd like to make two recommendations to you as senior executives of your individual companies.

The first recommendation relates to the communications revolution we're seeing in our industry -- the people doing much of the communicating are not experienced, professional communicators. The middle ranks in our companies are being subjected to media attention as never before, particularly your plant managers.

As a result, we must indemnify plant managers against the risk of working with the media at the local plant level, especially as the CAER program is implemented in each community. Of all the activities associated with the CAER program, the most difficult for your plant managers is talking to the press. Their fear, I think, is that a slip of the tongue or a misquote will have negative repercussions at the home office. If we're serious about CAER and local communications, we must create a climate where plant managers can be confident of management support when they speak out.

I realize that different companies have different policies in this area. And ther are some risks involved. But we feel that the risks are greater if plant managers DO NOT work with their local media, especially where the CAER program is involved.

A corollary to this recommendation is that the industry's communications people have to ensure that our plant people have the training and support to handle this more active communications role. As an example, the communications portion of the CAER handbook was a joint effort of the communications committee and CMA staff.

Our second recommendation is based on the fact that the public and some of the media make little distinction between one chemical company and another. To the public, we are all part of the same industry, for better or worse. The entire industry suffers when one of us makes page one with an emergency of some sort.

With this in mind, each chemical company must ensure that its emergency communications procedures are as up-to-date as its emergency operating procedures.

We should remember that there is no such thing as a national chemical emergency, only a local incident that develops into a national story. If our local communications are clear, concise, and proper when an incident starts, there is a far better chance that the resulting national news stories will reflect better on the industry. And there's always a chance that if we do our communications job right at the local level that the story will not escalate to the state or national level.

In conclusion, it's clear that we have a lot of work to do and that we're going to need all the patience we can muster. A lot of positive activity is underway by CMA and the member companies if we just give it time to succeed.

Given our continued commitment to the operating and communications programs that the industry is involved with, the communications committee is optimistic that over time we will achieve our goal of regaining the public's confidence. This is a goal worth the best efforts of every individual in our industry.

Thank you.

# # #

EXHIBIT M

## REMARKS TO CMA BOARD OF DIRECTORS

Thomas I. O'Brien
Chairman, Patent and Trademark Committee
January 28, 1986

Patents have long been recognized as an effective stimulant to ingenuity and technology innovation in the United States. After decades of benign neglect, patent and other industrial property rights have again been recognized as a key asset in maintaining the effectiveness of American competition both at home and abroad. They have been receiving increased attention in the government's dealing with our economy and the competitiveness of U.S. industry with foreign industry. During the last ten years much legislation and other actions, including the establishment of a federal patent appeals court, have already been implemented. These actions have strengthened the U.S. patent system. But much remains to be done. Many of these actions generally impact on the chemical industry, and some are specifically directed to it.

In reviewing 1985, I would initially like to mention three significant developments in the patent field. The first is the precedent set in the recent Kodak-Polaroid decision in which the courts refused to stay an injunction in a patent case during the appeal period. Whether one agrees with the decision in this particular case or not, this decision is a major example of the continuing shift in the judiciary to a pro-patent attitude. The Committee, I might add, took no action in respect to this litigation, but the decision is notable in what it represents.

Secondly, the U.S. government instituted an investigation under Section 301 of the 1984 Trade Act against South Korea. The government is looking into the adequacy of the laws of South Korea governing the protection of industrial property rights and the effect of such laws on U.S. trade in that country. Through this action, and various other recent actions in the international trade area, the government is demonstrating its concern with unfair practices in the industrial property field by trading partners.

The third is the effort initiated in various sectors toward harmonization of international patent procurement law and practice. This represents a concerted effort by governments and business to modernize, simplify and reduce the costs of patent procurement throughout the world.

These three developments are all seen as positive actions in the general trend towards more effective patent systems in today's world.

In the legislative area in 1985, there were no important U.S. laws enacted in the industrial property field, other than on government budget matters. 1985 has been a year, however, in which steady progress has been made in legislative reform. There are presently pending 9 patent bills, 4 trademark bills, and 5 other industrial property-related bills. Efforts continue to change the law to restore a full patent term for chemicals whose marketing introduction has been delayed because of regulatory testing and review by the government. Efforts continue to obtain patent protection in the United States against imported products that have been made in a foreign country with processes patented in this country. Changes in the law governing patent licenses are being sought to give licensors fairer treatment when licensees challenge the validity of licensed patents. The Committee also developed CMA positions on legislation on the utilization of federal laboratory technology and on uniform patent procedures for government inventions. CMA endorsed the latter legislation but has concern on the high royalty sharing provision for government employees in the technology utilization legislation. Amendments to the Tariff Act have been proposed to strengthen the rights of patent and trademark owners in Section 337 actions for the exclusion of imported products that infringe U.S. patents or otherwise compete unfairly with domestic industry.

Additional comments are warranted on some individual items.

As you may be aware from prior reports, the last Congress enacted legislation extending the term of drug patents whose effective term has been eroded by premarketing regulatory testing and review. Agricultural and TOSCA chemicals were deleted from that legislation. Bills have b en introduced into the current Congress, and hearings have been held, on similar patent term extensions for TOSCA and agricultural chemicals. The CMA Committee had a principal role in initially drafting this legislation when it was introduced several years ago. The Committee continues to llow and support this legislation, albeit today in a econdary coordinating role to NACA because of the more immediate concern of this bill to agricultural chemical manufacturers.

The Committee is supporting the pending process patent legislation. This is of particular significance to the United States chemical industry. Although not limited to the chemical industry, the chemical industry would be a direct beneficiary. It would give chemical producers additional protection against foreign competitors who use a process abroad that is patented in the U.S. and who then import into the U.S. products made by that process. The failure of current U.S. law to have such protection is considered inequitable because most other developed countries have such a provision and U.S. producers are thus placed in an unfair competitive position in international trade. Although some relief is now available against importation of such products through the International Trade Commission, that remedy has problems which this patent law change would obviate.

Industrial property rights are fast becoming a key issue in the international trade area. The government has recognized that American companies have a vital interest in protecting their proprietary positions abroad and that the government should pay more attention to this element of the American economy in foreign trade dealings. The government is now examining the adequacy of intellectual property protection in the context of the general review of the GSP (G neral Systems of Preferences) program. The government is also reviewing whether such inadequacies of a trading partner constitute trade barriers within the meaning of the Trade and Tariff Act of 1984. The Committee has provided, and will continue to provide, input for the chemical industry to the U.S. Trade Representative's office on the inadequacies of the industrial property laws of various countries. As mentioned earlier, the U.S. Trade Representative has instituted an investigation under Section 301 of the Trade Act against South Korea. It is understood that current negotiations with the Korean government may soon result in a settlement with significant improvements in Korean patent, trademark and copyright laws.

Additionally in the international area, the Committee continued to serve as chemical industry advisor to the government on international conventions and treaties and on cooperative governmental actions in this field. Efforts by the developing countries to revise the Paris Convention to permit a country to order forfeiture or compulsory licensing of a patent if it is not worked within a short time after grant have been successfully thwarted. The solid opposition of Group B (developed countries), which has coalesced under the leadership of the U.S., is the reason for this success. Indeed, there are no further sessions of the Diplomatic Conference planned at this time on that issue. Harmonization of patent procurement law and procedures is becoming an important and expanding international subject. Adherence of the United States to Chapter II of the Patent Cooperation Treaty was reviewed by the Committee, and Committee members were urged to support passage in this Congress of this non-controversial legislation. Under Chapter II U.S. patent applicants will be able to request an international preliminary examination and delay entering the national phase on foreign filings for 30 months from the date of the U.S. filing. The Committee has provided comments supporting a proposal for an international grace period for public disclosure of an invention before filing without loss of rights to patents. Patent application filing requirements, procedures and time deadlines are harmonization issues that the Committee expects to review in 1986.

Conclusion

As I stated at the outset, the attitude of the courts is becoming pro-patent and this has generally followed a similar shift in attitude within the U.S. government, especially in the Department of Justice and in the international trade area. These changes, which are strengthening industrial property protection, have not occurred overnight. They represent the fruits of many years of diligent effort on the part of many associated with patents, including the CMA Patent and Trademark Committee. The time is ripe to finish the job. In 1986 the CMA Patent and Trademark Committee will continue to advocate CMA positions in support of patent reform legislation, sensible U.S. government patent policies, governmental actions to improve industrial property protection for U.S. nationals in international markets and harmonization of patent procurement law and practice throughout the world.

EXHIBIT N

# CMA AIR TOXICS CONTROL POLICY

, is the policy of CMA to promote among its member companies practices that protect the safety and health of employees and of the residents of communities in which they operate. Our industry's goal is to assure that employees and communities are not adversely affected by our operations.

CMA understands the public concern regarding health effects from releases into the air of toxic materials. CMA also believes there is a need for better information on the effect of these releases to assure fully informed action by both government and industry. Therefore, in order to protect employees, public health and the environment, CMA member companies are undertaking a major program to expand and expedite efforts to minimize accidental air releases of toxic materials, control process emissions and increase understanding of the health effects from these releases and emissions. This program, which is recommended for implementation by each member company at each of its operations, has the following action elements:

For accidental releases:

1. Identify materials which if released could pose a risk of harm to employees, community health or safety.
2. Use the best available scientific information and procedures to assess the potential for accidental releases in quantities sufficient to adversely affect employees, community health or safety.
3. Institute programs as needed to protect employees and the community from such potential releases.
4. Vigorously support and implement the CMA Community Awareness and Emergency Response program, and the National Chemical Response and Information Center programs - CHEMTREC, CHEMNET, Emergency Response Training and Chemical Referral Center.

For process emissions:

1. Accelerate the development of an inventory of existing air toxics emissions.
2. Use the best available scientific information and procedures to assess the impact of these emissions on employees and the surrounding community and to determine the adequacy of control technology in place.
3. Move rapidly to reduce these emissions as needed to safeguard employees, public health and the environment.
4. Communicate the results of these actions to appropriate communities and government agencies.

To increase understanding of the health effects of both types of releases, member companies are encouraged to work actively with employees, customers and interested public and governmental groups to expand the base of knowledge on the health effects of air toxics.

CMA and its member companies will periodically reassess this program as additional scientific information and technological improvements become available.

January 28, 1986

EXHIBIT O

## PROCEDURES FOR CONSIDERATION IN IMPLEMENTING THE CMA AIR TOXICS CONTROL POLICY

During the development of the CMA Air Toxics Control Policy many possible implementation procedures were identified as ways, among others, of achieving the policy's desired results. The purpose of this document is to catalog these implementation procedures. This listing will facilitate member companies' decision making on which programmatic elements to integrate into their standard operating procedures. Among these are the following:

I ACCIDENTAL RELEASES

1. Listing of Materials and Estimating Potential Releases

   a. Identify materials which if released accidentally could pose a risk of harm to employees, community health or safety.

   b. Characterize sources of potential accidental releases.

   c. Calculate or develop reasonable estimates of the potential for accidental releases.

2. Impact and Control Technology Assessment

   a. Model or otherwise develop reasonable estimates of potential community impact.

   b. Evaluate the adequacy of existing accidental release prevention programs/technology to safeguard employees, public health and the environment.

3. Preventive Measures and Other Actions to Reduce the Risk of Accidental Releases

   Since each facility, process and chemical has different characteristics, the approach chosen to reduce the risk of accidental releases will vary, but could be selected from one or more of the following programmatic elements, among others:

   a. Monitoring and detection for release of highly hazardous materials.

   b. Routine inspection and maintenance programs for process safety and release control devices.

c. Employee training including release prevention, control and countermeasure programs.

d. Review of the design of new and existing equipment.

e. Utilization of national consensus standards for construction.

f. Safety and hazard audit surveys conducted on a regular basis.

g. Installation of redundant process controls, secondary containment and/or destruction equipment.

h. Establishment of an inventory management/reduction program.

4. CAER and NCRIC Program Implementation

a. Implement CAER program elements.

b. Participate to the maximum extent possible in NCRIC program (i.e., CHEMTREC, CHEMNET, Emergency Response Training, and Chemical Referral Center).

c. Support carrier inspection and training programs..

II PROCESS EMISSIONS

1. Emissions Inventory

a. Identify process emission points.

b. Characterize materials that are emitted.

c. Monitor, calculate, or otherwise develop reasonable estimates of amounts of process emissions.

2. Impact Assessment and Control Technology Assessment

a. Model, monitor, or otherwise develop reasonable estimates of the impact in the community.

b. Evaluate the adequacy of existing control technology effectiveness to safeguard employees, community public health and the environment.

3. Control Measures and Other Actions

Since each facility, process, and chemical has different characteristics, the approach chosen to reduce air toxics process emissions as needed will vary, but could be s lected from one or more of the following programmatic elements, among others:

a. Monitoring emissions for process control purposes.

b. Routine inspection and maintenance programs for process safety and emission control devices.

c. The utilization of appropriate control technology and/or national consensus standards for construction.

d. Safety and hazard audit surveys conducted on a regular basis.

e. Percentage reduction programs as required.

f. Establishment of an ambient air guidelines approach as the basis for emissions control.

III EXPAND THE BASE OF KNOWLEDGE FOR AIR TOXICS EMISSIONS HEALTH EFFECTS

a. Make available to interested parties the results of in-house research and studies.

b. Encourage cooperative studies and/or joint research with government and other thirds parties (e.g., universities, private organizations, companies).

January 28, 1986

EXHIBIT P

Superfund Status Report
Legislative Review
By Wells Denyes, Eastman Kodak Company

On December 10, 1985, the House passed its Superfund bill, on a vote of 391 to 33. This final action came after three days of floor debate, including one session that ran past midnight. This followed nearly a month of discussion and compromise between the principal committees, who had jurisdiction for this legislation, on how to bring the differing versions to the floor for consideration.

On October 10 the House Public Works and Transportation Committee reported their Superfund bill, but did not file their report until over a month later. This created delay since it was necessary for the principal committees, Energy and Commerce, and Public Works and Transportation, along with Merchant Marine and Fisheries, and Judiciary, to reach agreement on a compromise package which would be offered for floor debate. This so-called "mini-conference" consumed most of November, and it was not until December 4 that agreement had been reached and all were able to meet with the Rules Committee.

In October the House Ways and Means Committee agreed upon a funding package that relied principally upon a Superfund Excise Tax similar to the one adopted by the Senate. This funding provision became part of the package adopted for House floor consideration.

During House floor debate, three controversial amendments became the central focus of debate. The first, an amendment by Congressman Edgar (D-PA), which was adopted by a vote of 212 to 211, adds reporting of chronic hazards to the community right-to-know section. This provision is similar to the Senate section that was authored by Senator Lautenberg (D-NJ).

The second major floor issue was an amendment offered by Congressman Frank (D-MA) to add a federal cause of action provision. This was defeated 162 to 261. This means that both the Senate and the House have now rejected a victims compensation or federal cause of action provision to Superfund.

The third controversial amendment was on funding. By a vote of 220 to 206 the House adopted an amendment by Congressman Downey (D-NY) as a substitute for the Ways and Means Committee proposal. Mr. Downey's amendment relies almost entirely on the chemical and oil industries for tax revenue to fund a five year, $10 billion Superfund. The Downey proposal increases chemical feedstock taxes by about 50%, with the bulk of this increase being a nearly tripled tax on inorganic substances. The tax on petroleum is increased by over ten times, or if the funding for the new oil spill and underground storage tank programs are included, petroleum taxes would increase by nearly twenty times. Also included is a wet waste management tax which CMA has opposed. The D wney proposal does include substantial general revenues. Attached is a table which summarizes the revenue provisions in present law and of the Senate and House passed bills.

The Senate and House have now both passed legislation extending Superfund for five years. The two bills have significant differences. On the programmatic side, the Senate bill can be likened to an outline describing how the implementation of Superfund will be changed, but leaving the details to the discretion of EPA. The House bill, although similar, fills in that outline and leaves little discretion to EPA. These differences must be resolved in conference. The differences in funding are far more substantial. The Senate bill calls for $7.5 billion, most of which would come from a broad based tax (SET). The House bill is larger and relies almost entirely on the chemical and oil industries for its revenues.

During the final week before Congress adjourned on December 20, the Superfund taxing proposals got caught up in the debate on the budget reconciliation bill. Senator Packwood (R-OR), Chairman of the Senate Finance Committee, attached the Senate passed Superfund funding proposal to this reconciliation bill. The House rejected this proposal and for several days this bill moved back and forth between the Senate and the House with each party rejecting the Superfund funding proposal of the other on several recorded votes. The net result was that the budget reconciliation bill died with adjournment, primarily because of the differences over Superfund.

When Congress returns on January 21, 1986, the differences in the programmatic portion should not be difficult, although several are important and will require conpromise. The differences in the funding are far more substantive and are likely to require some significant changes in position by the parties involved.

Until Congress returns and conferees are appointed, it remains too early to develop a detailed strategy aimed at reaching an acceptable taxing mechanism. CMA continues to advocate (1) a freeze in the feedstock tax, (2) opposition to the Waste End Tax included in the House bill, and (3) support of the need for and the equity of a large broad based increment of funding.

CMA
EC-1/27/86
BD-1/28/86

Attachment

MILLIONS OF DOLLARS PER YEAR

| | PRESENT LAW | SENATE | HOUSE |
|---|---|---|---|
| FEEDSTOCKS | | | |
| ORGANICS | 222 | 222 | 288 |
| INORGANICS | 39 | 39 | 112 |
| PETROLEUM SF | 46 | 46 | 630 |
| OIL SPILL | --- | --- | 65 |
| WASTE TAX | --- | --- | 400 |
| SET | --- | 1144 | --- |
| IMPORT TAX | --- | --- | 13 |
| GENERAL REVENUE | 44 | --- | 317 |
| MISC. (INT. REC.) | --- | 56 | 80 |
| LUST | --- | --- | 170 |
| ANNUAL TOTAL | 351 | 1507 | 2075 |
| 5-YEAR TOTAL | $1.8 Billion | $7.5 Billion | $10.4 Billion |