

Revised  
A G E N D A  
CMA EXECUTIVE COMMITTEE MEETING  
8:30 a.m., Wednesday, March 6, 1985  
CMA Headquarters, Park Conference Room  
Washington, D. C.

|             |                                                                                                | <u>TAB</u>                            |
|-------------|------------------------------------------------------------------------------------------------|---------------------------------------|
| 8:30-8:35   | 1. Call to Order and Approval of Minutes of Meeting,<br>January 28, 1985 -- Chairman Sella     | 1                                     |
| 8:35-9:05   | 2. Clean Sites, Inc. Report -- John A. Klacsmann                                               |                                       |
| 9:05-9:07   | 3. Committee Appointments -- C. W. Van Vlack                                                   | 2                                     |
| 9:07-9:10   | 4. Treasurer's Report -- G. C. Herrman                                                         | 3                                     |
| 9:10-9:40   | 5. Finance Committee Report -- Harold A. Sorgenti                                              |                                       |
| 9:40-10:30  | 6. Superfund Reauthorization:                                                                  |                                       |
|             | a. Legislative Status -- Wells Denyes, Eastman<br>Kodak Company                                | 4                                     |
|             | b. Funding and Taxation -- Thomas G. Singley,<br>Shell Chemical Company                        |                                       |
|             | c. Joint and Several Liability -- Charles T. Marck,<br>Dow Chemical U.S.A.                     |                                       |
|             | 7. Bhopal Developments and Response:                                                           |                                       |
| 10:30-11:20 | a. CMA Program Status Report -- E. Hamilton Hurst,<br>Nalco Chemical Company                   | <u>Supplemental</u><br><u>Mailing</u> |
|             | - Community Awareness and Emergency Response (CAER)                                            |                                       |
|             | - National Chemical Response and Information<br>Center (NCRIC)                                 |                                       |
| 11:20-11:45 | b. Community Right-to-Know Position --<br>Geoffrey B. Hurwitz, Rohm and Haas Company           | <u>Supplemental</u><br><u>Mailing</u> |
| 11:45-2:00  | (TO THE MADISON HOTEL FOR THE CHEMICAL FORUM LUNCHEON AND RETURN)                              |                                       |
| 2:00-2:30   | c. Bhopal Related Legislative Developments -- W. M. Stover                                     |                                       |
|             | - Waxman Survey                                                                                |                                       |
|             | - Florio Bills                                                                                 |                                       |
| 2:30-2:45   | d. First Responder Training Program -- Frederic E. Allen<br>E. I. du Pont de Nemours & Company | 5                                     |
| 2:45-3:15   | 8. Report of the President -- R. A. Roland                                                     |                                       |
|             | a. Proposed Special Program on Cumene                                                          | 6                                     |
|             | b. Issue and Program Report                                                                    | 7                                     |
| 3:15-3:30   | 9. New Business                                                                                |                                       |
| 3:30        | 10. Adjournment                                                                                |                                       |

CMA 044339

MINUTES OF MEETING  
CMA EXECUTIVE COMMITTEE  
CMA Headquarters  
Board Conference Room  
Washington, D. C.  
March 6, 1985

1. The meeting was called to order at 8:30 a.m. by Chairman Sella. There were present:

George J. Sella, Chairman  
Alan Belzer  
W. H. Clark, Jr.  
Robert C. Forney  
Vincent L. Gregory, Jr.  
Edwin C. Holmer

John W. Johnstone, Jr.  
Robert D. Kennedy  
Richard J. Mahoney  
Robert H. Malott  
Harold A. Sorgenti

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

By invitation:

Peter R. Agnew  
\* Frederic E. Allen  
Richard G. Askew  
David L. Baird, Jr.  
\* Nela Brown  
\* Timothy F. Burns  
Robert D. Cadieux  
Geraldine V. Cox  
\* Wells Denyes  
\* Donald D. Evans  
\* Robert B. Hill  
Jon C. Holtzman  
E. Hamilton Hurst  
\* Geoffrey B. Hurwitz  
\* John A. Klacsmann  
\* Charles T. Marck  
\* Janet S. Matey  
\* Joe J. Mayhew  
Keith R. McKennon  
\* Leslie F. Nute  
Vernon R. Rice  
James H. Senger  
\* Thomas G. Singley  
William M. Stover  
\* Gordon D. Strickland  
Juliane H. Van Egmond

CMA  
E. I. du Pont de Nemours & Company  
Phillips Chemical Company  
Exxon Chemical Company  
Shell Oil Company  
CMA  
Amoco Chemicals Corporation  
CMA  
Eastman Kodak Company  
CMA  
CMA  
CMA  
Nalco Chemical Company  
Rohm and Haas Company  
Clean Sites Inc.  
Dow Chemical U.S.A.  
CMA  
CMA  
The Dow Chemical Company  
Dow Chemical U.S.A.  
E. I. du Pont de Nemours & Company  
Monsanto Company  
Shell Chemical Company  
CMA  
CMA  
American Cyanamid Company

\* Part time

CMA 044340

2. MINUTES OF LAST MEETING

The minutes of the January 28, 1985, meeting were approved as distributed.

3. CLEAN SITES INC.

Mr. Klacsmann presented a report on the status of CSI's funding, budget, program, and the outlook for fiscal years 1985-86 and 1986-87. Discussion centered on: CSI's ability to recover its operating expenses; indemnification of certain CSI activities by EPA; budget and staffing plans; status of fund-raising efforts from chemical and other industries and foundations; and progress in site selection and actual CSI site involvement. An outline of his presentation is attached as Exhibit A.

It was agreed that the Executive Committee members would again provide assistance to CSI by following up with some of the CMA member companies who had not made funding commitments to CSI or who had not transmitted funds on existing commitments. Mr. Van Vlack agreed to provide the Executive Committee assignment list developed at the October meeting to Mr. Klacsmann who will then communicate with Executive Committee members directly regarding their follow-up. In response to the Executive Committee's request, Mr. Klacsmann agreed to provide additional detail on CSI's 1985-86 projected and contingency budgets and program plans at the April 4 Executive Committee meeting. Mr. Klacsmann also agreed to make a more general presentation to the Board in April on CSI's program and progress to date.

4. COMMITTEE APPOINTMENTS

Mr. Van Vlack presented the nomination of Edlu J. Thom, Diamond Shamrock Chemicals Company, to fill the vacancy created on the Government Relations Committee by the resignation of Patti Jo Baber of the same company, for a term ending May 31, 1985. The continuation of the membership and chairmanship of Thomas M. Hellman on the Environmental Management Committee as a representative of the General Electric Company for the remainder of his original term ending May 31, 1985, was also presented. These were approved.

5. TREASURER'S REPORT

Mr. Herrman reported that the February 28 Treasurer's Report will be mailed as soon as it is compiled and printed. The latest projections for the current year indicate total revenues of \$13,215,100; expenses of \$13,719,400; and use of reserves of approximately \$504,300.

6. REPORT OF THE FINANCE COMMITTEE

Chairman Sorgenti reported the results and recommendations of the Finance Committee meeting held the prior day. He noted that staff had been directed to prioritize the expenditures into three categories as reflected in the material previously mailed and as summarized in Exhibit B. Following the full day review, the summary budget recommendations of the committee were

a 3% increase in the schedule of fees and a FY 85/86 budget of \$14,354,400, which would stop further use of reserves. The committee found that there was very little of the priority expenditures that could be specifically eliminated and thus focused its attention on: (1) what level of increase would be reasonable to the membership; and (2) on the priority-setting process itself.

A principal recommendation for the coming years was that there be increased participation in the priority-setting process by member company employees serving on the standing committees. During discussion, it was agreed that at least the chairmen of the principal committees should be involved in the presentations to the Finance Committee. Those chairmen could then comment on the appropriateness and adequacy of the requests. It was felt that the priority-setting and budget process is a good one but that more input from the people actually working on the committees was needed.

During discussion, the flexibility of the Officers, Executive Committee, and Board to dip into reserves or transfer funds internally for extraordinary items was noted as an offset to restraining the budget increase to 4.6%. Specifically mentioned was the ability to use this mechanism if planning and implementation proceeded to a level that increased funding for the National Chemical Response and Information Center (NCRIC) or greater Superfund consulting became necessary.

Other recommendations included encouraging that the Officers begin looking at some mechanism to enhance cooperation with other related associations, particularly in the grassroots lobbying activity, to maximize the effective use of industry resources.

It was also recommended that a major effort be undertaken to increase direct participation of member companies in CMA activities. It was suggested that asking members to annually contribute a specific number of people of the quality and level needed be considered.

It was recommended that the Finance Committee review the membership fee schedule in detail in the coming year. One area of particular interest should be the possibility of raising the minimum fees and thereby increase involvement and support by smaller companies.

It was noted that the committee came away with the understanding that the entire CMA staff is stretched and that they were working hard on the programs as approved. While recognizing this and the appropriateness of pursuing the priority No. 1 and No. 2 programs, the Finance Committee did not believe a dues increase of the magnitude necessary to fund these programs could be recommended. By recommending increased member participation in CMA programs, it was the intent of the Finance Committee to remove some of the increased burden from the staff. It was also noted that a 6% salary guideline was incorporated for staff based on the Washington, D.C. market and, following discussion, this was deemed appropriate.

Following the overall discussion, the committee approved the proposed budget incorporating the Finance Committee's recommendations, including an increase in the fee schedule of 3% and a FY 85/86 budget of \$14,354,400, to be presented for Board approval at the April meeting.

7. SUPERFUND REAUTHORIZATION

a. Association Activities

Mr. Stover reported on the Grassroots Rally planned for March 13 and indicated that Graham Jackson of Nalco had agreed to serve as Chairman of the Grassroots Task Group. He also reported on recent significant developments with respect to key Louisiana leaders, including Governor Edwin Edwards, Congressman Gillis Long, and Senator Russell Long, which will have an impact on Superfund. Finally, he reported on joint lobbying efforts with the American Petroleum Institute (API).

b. Legislative Status

Mr. Denyes' report on legislative activities is attached as Exhibit C. In addition he reported on the recently released Administration bill to reauthorize Superfund. Major provisions of this bill include:

- Funding of \$5.3 billion over five years.
- Funding with feedstock taxes frozen at the current level and a new waste generation and treatment tax designed to raise \$600 million, annually. CMA estimates are that the new tax would raise many times that amount, with 10-12 companies paying 85% of the tax.
- Assumes cost recoveries, interest, and penalties of approximately \$100 million.
- No provision for a federal cause-of-action or victims compensation.
- Narrowing of the scope of the bill to focus on waste site cleanup.
- No change to joint and several liability.
- Removal of provisions for natural resource damages.

Superfund was the subject of one day of hearings in the Senate Environment and Public Works Committee on February 25. Senator Stafford's bill (S.51) was subsequently reported out with the following amendments on a 14-1 vote:

- Increase in the fund size to \$7.5 billion.
- Support for continuation of general revenues at the rate of 12.5%.
- Inclusion of a pilot victims compensation program.
- Additional requirements regarding notification of releases.

Hearings are expected to begin in the House in March. No dates have been set for Finance Committee action in the Senate.

c. Funding and Taxation

Mr. Singley reported on issues relating to funding and taxation. He reviewed the status of feedstock and waste-end tax funding proposals and it was agreed that the CMA position would continue to be that each of these taxes should yield approximately \$300 million. There was further discussion of the Administration's tax on hazardous waste generation and treatment. It was agreed that it was critical on waste-end funding to get back to a tax on disposal on a dry weight basis with a target of \$300 million.

Mr. Singley then reported on progress with API in developing a broad-based contingency tax on manufacturing as requested at the January meeting. The proposal under active development is a value-added tax on manufacturers and importers which has been designated as NEET (National Environmental Excise Tax). An outline of this tax is attached as Exhibit D. The NEET tax would be imposed on the first sale, use, or lease of property by the manufacturer, producer, or importer. Although considerable work remains to be done to fully evaluate this approach and develop the necessary detail, Mr. Singley indicated that he expected to have a substantive proposal drafted by the end of March.

Considerable discussion followed concerning the details of how the tax would be imposed and collected, the merits of NEET vs. other broad-based taxes on manufacturing, the prospects for inclusion of general revenue, and the size of the Superfund which would be funded. It was agreed that CMA will:

- Continue to support annual funding levels of approximately \$1 billion.
- Continue to work for improved program language on non-funding issues.
- Continue to vigorously advocate funding from the following sources at the following levels:
  - \$307 million from feedstock.
  - \$307 million from a \$50 per dry weight ton on waste disposal.

- \$176 million from general revenue.
- \$210 million from interest, cost recoveries, etc.
- Borrowing authority.
- Continue to work with API on the development of a broad-based tax on manufacturing. The NEET proposal is expected to be ready for review by the end of March.
- Meet with API representatives as soon as possible to discuss options on funding and the Bradley proposal.

On motion by Mr. Holmer, it was also agreed that Association representatives could surface, as part of CMA's lobbying efforts, the concept of a broad-based tax on manufacturing as a contingency in the event that funds from general revenues and recoveries from liable parties appear insufficient to reach the Administration's \$1 billion per year funding level. Dr. Forney was recorded as reserving DuPont's position on this motion pending review of whatever broad-based tax ultimately is brought forward for approval.

Mr. Stover briefed the Executive Committee on Senator Bradley's funding amendments which had just been released.

d. Joint and Several Liability

In response to the request made at the January meeting, Mr. Stover, on behalf of the Government Relations Committee, presented the following position concerning legislative changes to joint and several liability:

The Government Relations Committee recognizes the need to encourage the prompt and effective cleanup of hazardous waste sites and that the application of joint and several liability may impede this goal, leading to excessive transaction costs. It is, therefore, the recommendation of the Government Relations Committee that CMA continue to seek opportunities to support amendments, such as those offered in 1984 by Senator Alan Simpson, which would reduce the harsh effects of Superfund's joint and several liability provision. The committee will continue to carefully monitor prospects for improvements in this important area of the law.

This was agreed to.

8. BHOPAL INITIATIVES

Mr. Hurst reported on the further development of the Community Awareness and Emergency Response (CAER) program and the establishment of the National Chemical Response and Information Center (NCRIC) which were approved at the January Board meeting. The detailed proposals to implement CAER and NCRIC, contained in Exhibits E and F, were agreed to. Mr. Hurst reported that a

press conference to announce the initiatives had been scheduled for March 26 in Washington. A schedule of briefings are being established to inform key legislative, agency, and association contacts.

Chairman Sella urged that pending federal legislation be reviewed carefully to determine if it supplements and supports the objectives of CAER. Mr. Johnstone reported on related activities being considered by American Institute of Chemical Engineers (AIChE). It was agreed that these and other initiatives should be coordinated with the CMA programs. Chairman Sella urged that a maximum effort be made to get member company commitment to these initiatives by the Annual Meeting in June. It was agreed that plant managers' involvement would be critical to the success of CAER.

9. COMMUNITY RIGHT-TO-KNOW

Mr. Hurwitz, on behalf of the Joint Right-to-Know Task Group, presented a proposed policy statement on community right-to-know. This policy, as set forth in Exhibit G, was approved. Mr. Hurwitz also reported on pending federal and state right-to-know legislation.

10. BHOPAL RELATED LEGISLATIVE DEVELOPMENTS

Mr. Stover reported on the various pieces of legislation which had been introduced in response to the Bhopal incident. Mr. Zoll distributed an analysis of the Florio proposals, attached as Exhibit H, which had been prepared by the Legal Department. Serious consideration of the bills was reported to be some time away; however, Association policy is being reviewed to determine whether new positions or adjustments in existing policy are required.

11. FIRST RESPONDER TRAINING

Mr. Allen's report is attached as Exhibit I. His report included the fact that no comprehensive federal programs exist to provide training and equipment to respond to hazardous materials incidents. The first stage of the training program, which included the development of a lending library of training materials and a video training course and manuals, was approved. Mr. Allen indicated that the Distribution Committee would bring forward the remainder of the program for approval at a later time.

12. REPORT OF THE PRESIDENT

a. Special Program

The proposed special program on cumene was approved as described in Exhibit J.

b. Departmental Reports

Oral reports of the Vice Presidents were deferred due to a lack of time. The full Report of the President on Association activities is attached as Exhibit K.

13. NEW BUSINESS

In response to the issue raised by Mr. Malott relative to the Stafford amendment to the Kasten product liability reform bill, it was agreed that staff would review the legal memo received that day and make a recommendation to the officers concerning the desirability of CMA testifying at Senate hearings later in March.

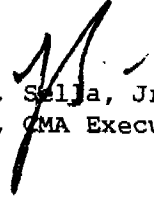
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On motion, made and seconded, the meeting adjourned at 3:50 p.m.



Charles W. Van Vlack  
Corporate Secretary

Certified correct:



George J. Selja, Jr.  
Chairman, CMA Executive Committee



# CLEAN SITES INC

1199 NORTH FAIRFAX STREET / ALEXANDRIA VIRGINIA 22314 / 703-683-8522

## C.S.I. UPDATE

PRESENTATION TO  
CMA EXECUTIVE COMMITTEE

March 6, 1985  
Washington, D.C.

CHAIRMAN OF THE BOARD/Russell E. Train PRESIDENT/Charles W. Powers BOARD OF DIRECTORS/Douglas M. Costle, Louis Fernandez,  
Sandra S. Gardebring, Edwin A. Gee, Donald Kennedy, Joshua Lederberg, Charles W. Powers, William K. Reilly, Henry B. Schacht

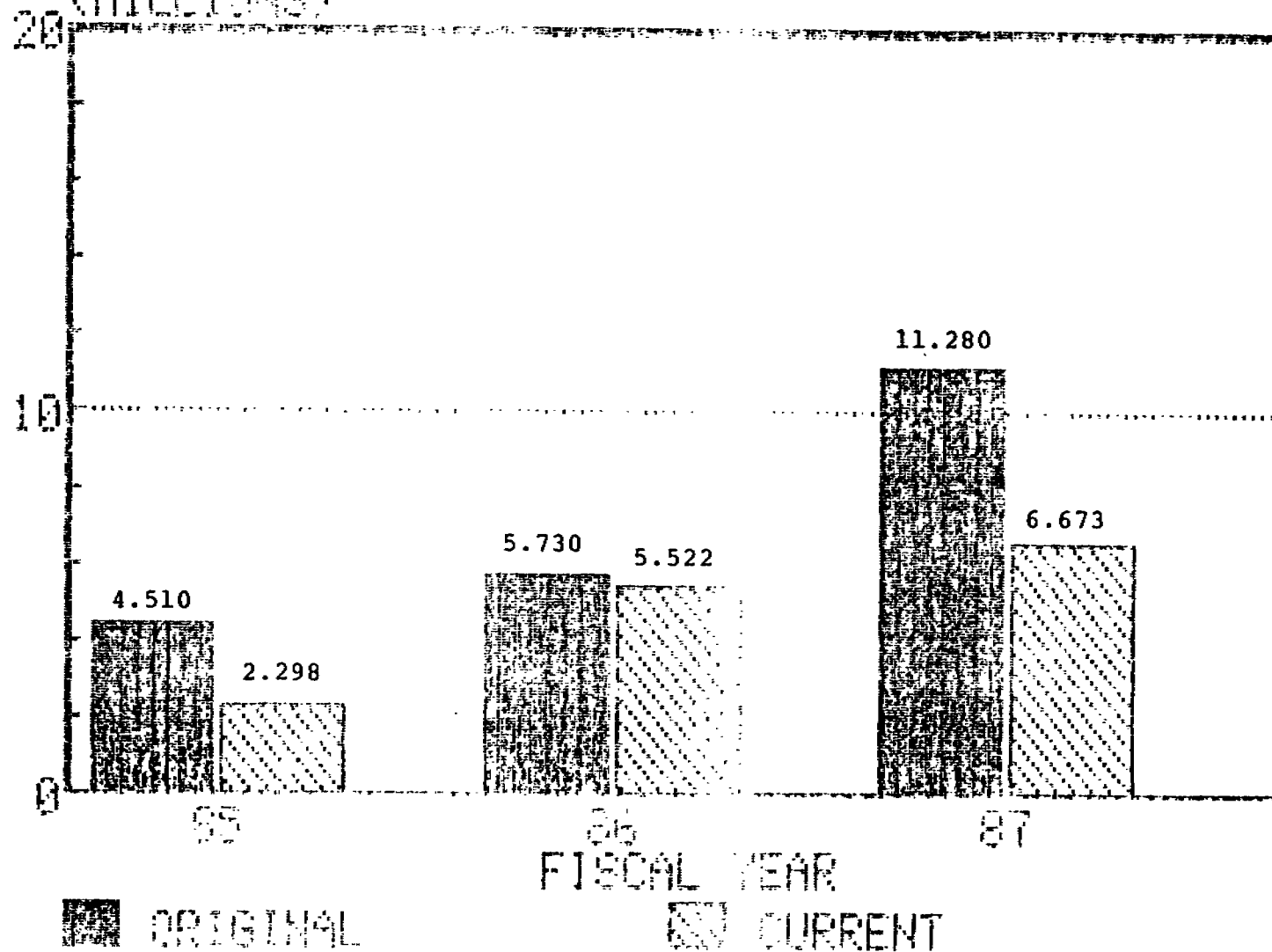
CMA 044348

## AGENDA

1. FORECAST - \$
2. FORECAST - PEOPLE
3. FORECAST - SITES
4. FUNDING OUTLOOK
5. FUNDING PROGRAM
6. INDEMNIFICATION
7. ACTIVITIES
8. SCOREKEEPING
9. COMMUNICATIONS
10. ADDENDA
  - a. Forum
  - b. Indemnification Agreement
  - c. Biographies
    - (1) Staff
    - (2) Panel

# FORECAST BUDGET

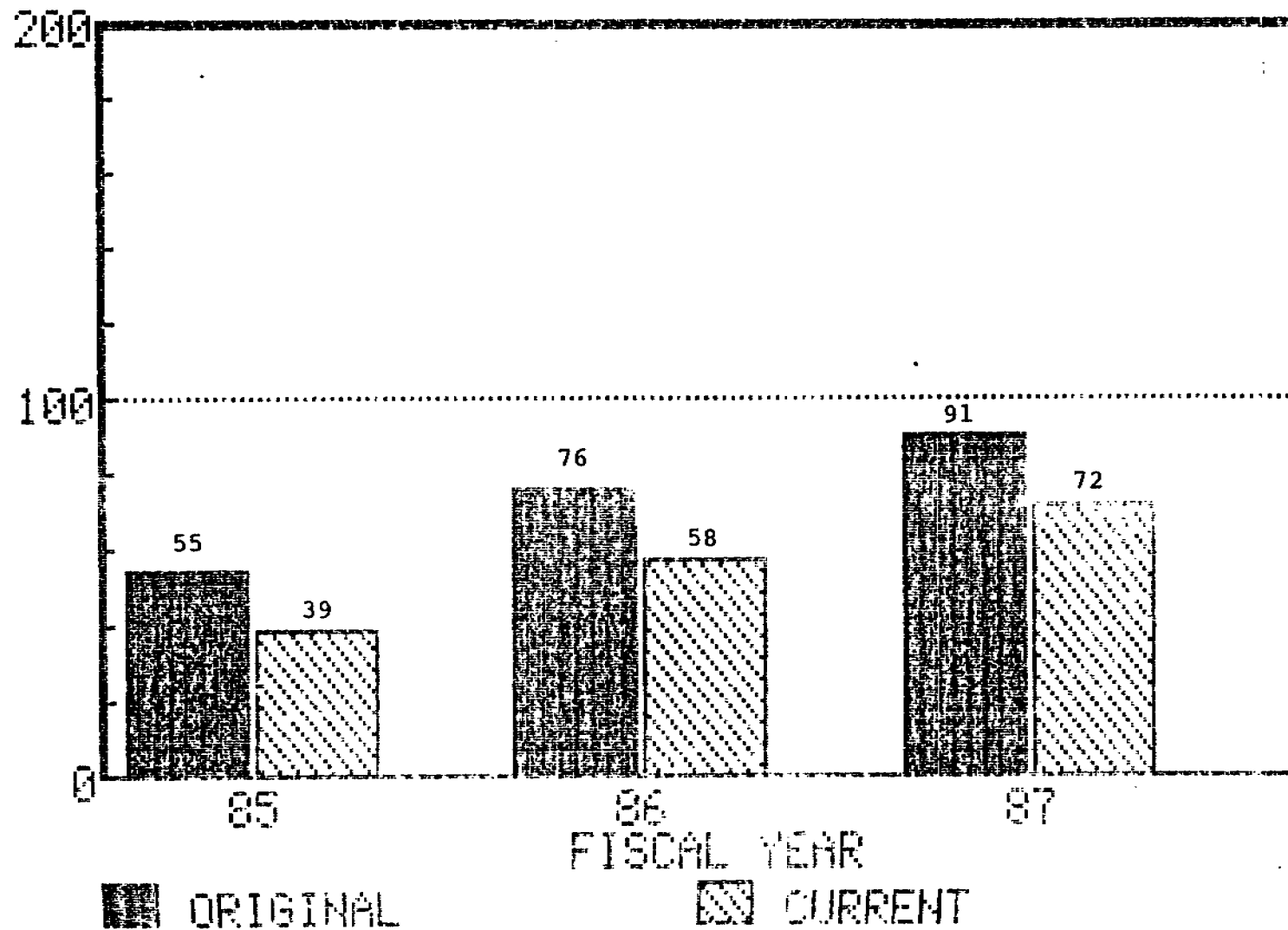
(MILLIONS)



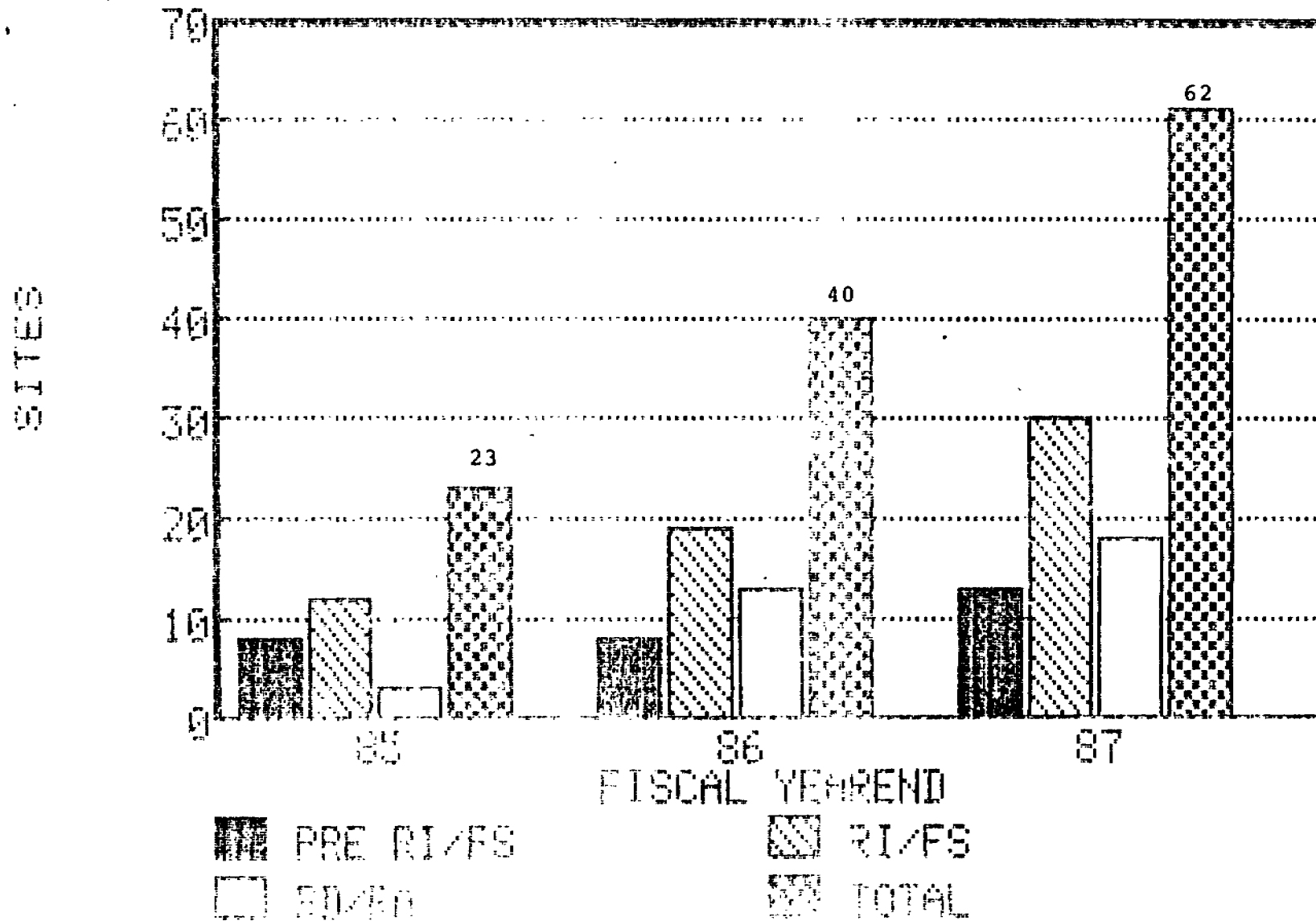
SECTION

CMA 044350

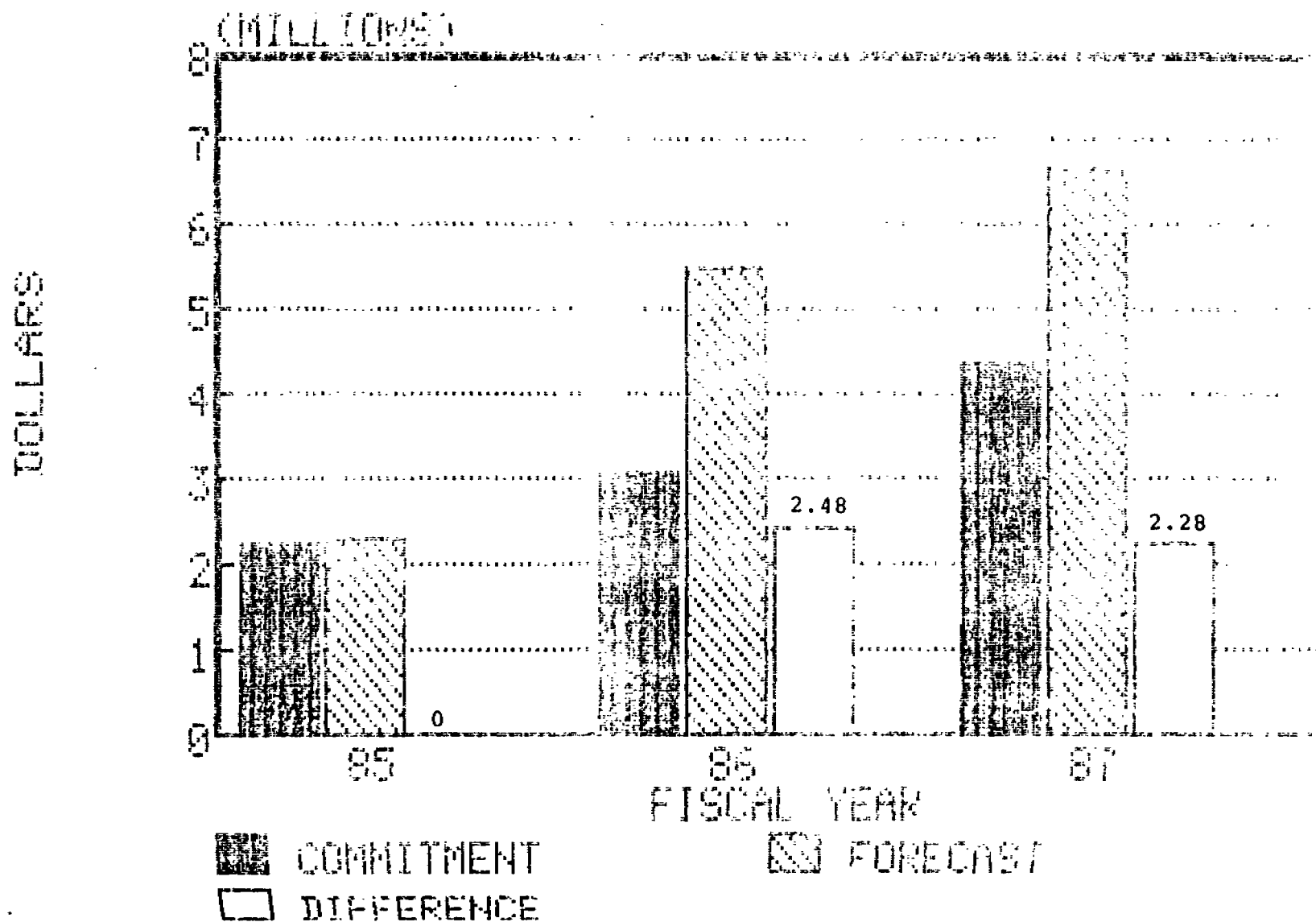
## FORECAST BUDGET



# SITE INVOLVEMENT FORECAST



# COMMITMENT VS FORECAST



CONTRIBUTIONS TO C.S.I.

FISCAL 84-85

| <u>Industry</u>               | <u>Dollars in</u><br><u>Committed</u> | <u>Thousands</u><br><u>Actual</u> |
|-------------------------------|---------------------------------------|-----------------------------------|
| Chemical                      | 2167                                  | 1862                              |
| Steel                         | 85                                    | 85                                |
| Petroleum                     | 30                                    | 30                                |
| Electrical                    | 11                                    | 11                                |
| Sub-Total                     | 2293                                  | 1988                              |
| Anticipated Chemical Industry |                                       | 305                               |
| TOTAL                         | 2293                                  | 2293                              |

FUNDING ACTIVITIES

1. COORDINATED PROGRAM  
Steering Committee, CSI Board, CSI Management
2. SET GOALS AND STRATEGIES FOR SPECIFIC INDUSTRIES  
AND INSTITUTIONS
3. TARGET KEY PEOPLE
4. PROVIDE ANALYSES, BASIC PRESENTATIONS, AND  
FOLLOW UP BY C.S.I. STAFF
5. DEVELOP ALTERNATE PLANS FOR LESS THAN GOAL FUNDING

INDEMNIFICATION

\$5MM PER SITE

\$10MM PER YEAR

APPLICABLE TO EARLY STAGES (PRIOR TO CLEAN-UP)

NEED TO NOTIFY

RESPONSIBILITY AND OPPORTUNITY TO CERTIFY

C.S.I. CANNOT CHARGE FOR SERVICES (CAN PASS THROUGH  
CHARGES

SITE ACTIVITIES

- SITE 1. ALLOCATION
- SITE 2. BINDING ALLOCATION - FIRST PANEL
- SITE 3. BRINGING PARTIES TOGETHER  
(PRPs, EPA, LOCAL)
- SITE 4. CLUSTER -- COST EFFECTIVENESS,  
EASIER COALESCING
- SITE 5. CLUSTER -- INDIVIDUAL SOLUTION MAY BE  
INADEQUATE
- SITE 6. BRING PRP, INCLUDING LOCAL GOVERNMENT
- SITE 7. BRING PRPs TOGETHER

\* \* \* \* \*

ASSESSING 54 SITES TO DETERMINE A C.S.I.  
POTENTIAL

OBTAIN PROJECT MANAGEMENT ASSIGNMENT

DEVELOPMENT OF CLUSTER APPROACH CONCEPT FOR  
BROADER APPLICATION

- a. Cost Effectiveness
- b. Easier Coalescing
- c. More Rational Allocation
- d. Achieve Treatment at Existing Site

MEASURES OF C.S.I. PERFORMANCE

CRITERIA

ASSESSMENTS UNDERWAY/COMPLETED

C.S.I. COMMITMENT

CRITICAL GROUPS OF PRPs BROUGHT TOGETHER

PRP PARTICIPATION IN RI/FS

PRPs TO CONDUCT RI/FS

RI/FS COMPLETED

PRPs AGREE ON TECHNICAL SOLUTION

LOCALITY AGREES TO TECHNICAL SOLUTION

EPA AGREES TO TECHNICAL SOLUTION

PRP AGREEMENT ON DRAFT SETTLEMENT

GOVERNMENT AGREEMENT ON SETTLEMENT

AGREEMENT ON CLEANUP MANAGEMENT

OVERSIGHT OF CLEANUP

MANAGEMENT OF CLEANUP

COMPLETION OF CLEANUP

MONITORING LONG TERM

COMMUNICATIONS

MONTHLY LETTER

LETTERS TO CEOs - Chemical Industry

LETTERS TO CEOs - Other Industries

LETTERS TO ADMINISTRATIVE CONTACTS

MISSION BOOK<sup>\*</sup>

CONTACTS

- EPA -- Headquarters and Regions
- CONGRESSIONAL AIDES
- STATE ENVIRONMENTAL OFFICES
- POTENTIAL CONTRIBUTORS
- PUBLIC INTEREST AND COMMUNITY GROUPS

STAFF BIOGRAPHIES AND APPOINTMENTS

TALKS AND PRESENTATIONS (e.g., AVCs)

CMA DISCUSSIONS

MEDIA INQUIRY RESPONSE

ARTICLES FOR PUBLICATION BY STAFF

BROCHURES

<sup>\*</sup> To Be Issued

Kit R. Krickenberger - Coalescing Executive, Clean Sites, Inc.

Experience

Environmental and Regulatory Affairs Division,  
Exxon Minerals Company

Responsible for environmental aspects arising from the operation of Chilean properties, including two copper mines and one smelter. Also responsible for negotiations with the U.S. Bureau of Land Management concerning a large sale of federally-owned land for the purpose of developing a molybdenum mine and processing facilities.

Associate Department Head, Environmental and Hazardous Waste Department, The MITRE Corporation:

Responsible for management of 30-person department within non-profit environmental consulting firm. Focus of effort on Superfund program with the U.S. Environmental Protection Agency.

Project Officer, Effluent Guidelines Division,  
U.S. Environmental Protection Agency:

Responsible for development and promulgation of effluent guidelines for the electroplating and metal finishing industries.

Education

Ph.D., Marine Geochemistry, University of Maryland, 1977  
B.S., Geology/Chemistry, Bowling Green State University, 1972

Edwin L. Ekholm  
644 Augusta Drive  
Houston, Texas 77057

Mr. Ekholm is a professional engineer with more than 30 years experience in petroleum and the petrochemical industry. From 1966 to 1983 he held several positions with Engineering/Construction including Manager of Process Engineering and Vice President of a joint venture in Venezuela. He also gained substantial experience in technology transfer.

Mr. Ekholm was a Technical Director for an Allied Chemical Division from 1962 to 1966. He founded PACE in 1957, one of the first successful consulting firms servicing the oil and chemical industry. He was one of the first process engineers in petrochemicals gaining broad experience in refinery conversion processes while serving Exxon from 1942 to 1957.

Professional Credentials

Georgia Tech, BSCE 1946

Registered Professional Engineer, Texas and Louisiana

Fellow and Former Director, American Institute of Chemical  
Engineers

Member and Chairman, PMI-7, Project Management Institute

Anthony C. Liotta  
1350 Beverly Road  
McLean, Virginia 22101

Mr. Liotta recently retired from his position as the Assistant Attorney General responsible for management of the United States Department of Justice. He also served as Associate Deputy Attorney General for Deputy Attorney General, Carol Dirkins.

Mr. Liotta was Deputy Assistant Attorney General of the Land and Natural Resources Division from 1978 to 1984. During that period, the Division shifted its primary focus to hazardous waste litigation to service the toxic substances explosion at EPA.

Mr. Liotta offers 30 years experience in resolving disputes through litigation and negotiation. It is anticipated that such experience in legal process, dispute resolution and management will complement the technical skills and experience of the other members of the Panel.

#### Professional Credentials

Bar memberships include New Jersey, the United States Supreme Court, the United States Court of Claims and several United States Courts of Appeals. Presidential Rank Award 1982; Attorney General's Distinguished Award 1980.

CHEMICAL MANUFACTURERS ASSOCIATION  
SUMMARY OF REVENUE, DIRECT PROGRAM & COMMITTEE SUPPORT COSTS  
AND MANAGEMENT & GENERAL SUPPORT ACTIVITIES  
FY 83/84 Actual, Current Year Budget & Projection.  
Preliminary FY 85/86 Budget (Priorities #1, 2 & 3)

|                                                                        | FY 83/84<br>Audited<br>Results | Amended<br>FY 84/85<br>Budget | Projected<br>FY 84/85<br>Actual<br>Results | Preliminary<br>Priority #1<br>FY 85/86<br>Budget | Preliminary<br>Priority #2<br>FY 85/86<br>Budget | Recommended<br>FY 85/86<br>Budget | Priority #3<br>FY 85/86<br>Unfunded<br>Requests |
|------------------------------------------------------------------------|--------------------------------|-------------------------------|--------------------------------------------|--------------------------------------------------|--------------------------------------------------|-----------------------------------|-------------------------------------------------|
| <b>REVENUE:</b>                                                        |                                |                               |                                            |                                                  |                                                  |                                   |                                                 |
| Membership Dues                                                        | \$11,176,600                   | \$11,712,200                  | \$11,705,100                               | \$12,600,000                                     | \$ --                                            | \$12,600,000                      | \$ --                                           |
| - Fee Schedule Increase @ 9.0%                                         | --                             | --                            | --                                         | --                                               | 1,134,000                                        | 1,134,000                         | --                                              |
| Investment Revenue                                                     | 1,252,700                      | 1,285,000                     | 1,245,000                                  | 1,227,900                                        | --                                               | 1,227,900                         | --                                              |
| Meetings (Net of Expenses)                                             | 255,400                        | 207,800                       | 177,600                                    | 164,500                                          | --                                               | 164,500                           | --                                              |
| Revenue From Special<br>Program Area                                   | 74,300                         | 75,000                        | 75,000                                     | 75,000                                           | --                                               | 75,000                            | --                                              |
| All Other                                                              | 14,200                         | 8,000                         | 12,400                                     | 8,000                                            | --                                               | 8,000                             | --                                              |
| <b>TOTAL REVENUE</b>                                                   | <b>\$12,773,200</b>            | <b>\$13,288,000</b>           | <b>\$13,215,100</b>                        | <b>\$14,075,400</b>                              | <b>\$ 1,134,000</b>                              | <b>\$15,209,400</b>               | <b>\$ --</b>                                    |
| <b>DIRECT PROGRAM &amp; COMMITTEE</b>                                  |                                |                               |                                            |                                                  |                                                  |                                   |                                                 |
| <b>SUPPORT COSTS:</b>                                                  |                                |                               |                                            |                                                  |                                                  |                                   |                                                 |
| Health & Safety Committee                                              | \$ 2,212,300                   | \$ 1,708,300                  | \$ 1,750,700                               | \$ 1,582,900                                     | \$ 270,000                                       | \$ 1,852,900                      | \$ 404,000                                      |
| International Affairs Group                                            | 158,400                        | 212,400                       | 217,900                                    | 211,200                                          | --                                               | 211,200                           | 20,000                                          |
| Environmental Management Committee                                     | 1,604,800                      | 1,473,700                     | 1,471,400                                  | 1,833,100                                        | 80,000                                           | 1,913,100                         | 732,000                                         |
| Distribution Committee                                                 | 856,200                        | 1,005,100                     | 1,090,500                                  | 1,264,600                                        | 140,000                                          | 1,404,600                         | 55,000                                          |
| Energy & Equipment Advisory<br>Committee                               | 234,200                        | 300,000                       | 271,300                                    | 307,100                                          | --                                               | 307,100                           | 70,000                                          |
| Government Relations, International<br>Trade and Tax Policy Committees | 1,546,100                      | 2,178,800                     | 2,163,000                                  | 1,915,700                                        | 330,000                                          | 2,245,700                         | 80,000                                          |
| Communications Committee                                               | 2,248,800                      | 2,414,000                     | 2,365,200                                  | 2,568,700                                        | 168,000                                          | 2,736,700                         | 480,000                                         |
| State Affairs Committee                                                | 462,900                        | 632,400                       | 572,200                                    | 648,200                                          | --                                               | 648,200                           | 70,000                                          |
| Office of General Counsel                                              | 1,212,600                      | 1,241,400                     | 1,268,700                                  | 1,242,400                                        | 30,000                                           | 1,272,900                         | 45,000                                          |
| Technical Administration                                               | 282,800                        | 317,800                       | 304,800                                    | 321,600                                          | --                                               | 321,600                           | --                                              |
| <b>TOTAL</b>                                                           | <b>\$10,819,100</b>            | <b>\$11,484,700</b>           | <b>\$11,475,700</b>                        | <b>\$11,896,000</b>                              | <b>\$ 1,018,000</b>                              | <b>\$12,914,000</b>               | <b>\$ 1,956,000</b>                             |
| <b>UNALLOCATED MANAGEMENT AND<br/>GENERAL SUPPORT ACTIVITIES:</b>      |                                |                               |                                            |                                                  |                                                  |                                   |                                                 |
| Executive Department                                                   | \$ 924,200                     | \$ 966,700                    | \$ 942,300                                 | \$ 886,200                                       | \$ --                                            | \$ 886,200                        | \$ --                                           |
| Meetings & Conventions                                                 | 191,400                        | 225,600                       | 213,700                                    | 200,800                                          | --                                               | 200,800                           | --                                              |
| Accounting & Business<br>Services                                      | 496,800                        | 514,600                       | 503,500                                    | 540,000                                          | --                                               | 540,000                           | --                                              |
| Computer & Internal<br>Information Services                            | 258,400                        | 370,400                       | 366,400                                    | 443,300                                          | --                                               | 443,300                           | 35,000                                          |
| Printing & Distribution                                                | 210,100                        | 222,200                       | 217,800                                    | 225,100                                          | --                                               | 225,100                           | --                                              |
| <b>TOTAL</b>                                                           | <b>\$ 2,080,900</b>            | <b>\$ 2,299,500</b>           | <b>\$ 2,243,700</b>                        | <b>\$ 2,295,400</b>                              | <b>\$ --</b>                                     | <b>\$ 2,295,400</b>               | <b>\$ 35,000</b>                                |
| <b>TOTAL PRIORITY EXPENSE</b>                                          | <b>\$12,900,000</b>            | <b>\$13,784,200</b>           | <b>\$13,719,400</b>                        | <b>\$14,191,400</b>                              | <b>\$ 1,018,000</b>                              | <b>\$15,209,400</b>               | <b>\$ 1,991,000</b>                             |
| Contribution to (Use of)<br>Reserves                                   | \$ (126,800)                   | \$ (496,200)                  | \$ (504,300)                               | \$ (116,000)                                     | \$ 116,000                                       | \$ --                             | \$ N/A                                          |

|                                            |     |     |     |     |    |     |    |
|--------------------------------------------|-----|-----|-----|-----|----|-----|----|
| AUTHORIZED PERSONNEL                       | 146 | 153 | 153 | 159 | 3  | 162 | 4  |
| SEPARATELY FUNDED<br>SPECIAL PROGRAM STAFF | 16  | 16  | 16  | 16  | -- | 16  | -- |

SUPERFUND STATUS REPORT  
LEGISLATIVE UPDATE

By Wells Denyes, Eastman Chemical Products, Inc.

Action on Superfund in the 99th Congress has begun at a somewhat slower pace than was anticipated. Congressman James Florio (D-NJ) has not introduced Superfund legislation, nor has he announced his schedule for hearings. However, during the last Congress, the House Public Works and Transportation Committee, through the efforts of John Breaux (D-LA), nearly approved an approach very different from Florio's. The same type of effort by Breaux and the committee could be very helpful this session.

Senator Robert Stafford (R-VT) introduced a bill on the first day of the new Congress, which closely tracks the bill approved by the Senate Environment and Public Works Committee last September. March appears to be the earliest time for Senate hearings to be held on it, but Senator Lloyd Bentsen (D-TX) has already indicated he will resist increasing Superfund feedstock taxes because Texas companies are paying 50 percent of the tax. Bentsen is the ranking Democrat on the Environment and Public Works Committee. He previously introduced a workable waste-end tax with Senator Daniel Moynihan (D-NY), which they plan to advance again this year.

The Administration, led by the Environmental Protection Agency, is also developing a legislative proposal. It is expected to be introduced in March. This proposal will likely recommend funding of about \$1 billion a year, achieved principally by increased feedstock and crude oil taxes, plus a new waste-end tax. It will likely recommend narrowing the scope of Superfund responses so that the program will be directed principally toward waste site cleanup and not expanded to other hazardous materials.

The Reagan Administration will oppose inclusion of a public compensation program or an expanded federal cause of action. This Administration bill could become the centerpiece for Congressional debate.

The newly-reorganized Superfund task group of CMA's Government Relations Committee continues to advocate the CMA position on the reauthorization of Superfund. Cooperative efforts are underway with appropriate technical task groups to refine and supplement policy positions and advocacy materials. Contacts are continuing with Congressional leadership and with members of the principle committees that will be involved in crafting the new Superfund bill. In addition, the task group is working with other industries to develop broad-based support for positions on many of the issues involved in Superfund.

CMA  
EC-3/6/85

CMA 044364

NATIONAL ENVIRONMENTAL EXCISE TAX (NEET)

- TAXABLE EVENT

THE FIRST SALE (INCLUDING LEASE OR USE) OF A MANUFACTURED ARTICLE OF TANGIBLE PERSONAL PROPERTY BY THE MANUFACTURER, PRODUCER OR IMPORTER THEREOF

- TAX RATE

A TAX RATE OF 0.07% WOULD RAISE AN ESTIMATED \$1 BILLION

- REPORTING REQUIREMENTS

T/P QUARTERLY REPORTS TO I.R.S. ON ALL TAX COLLECTED ON SALES OF TANGIBLE PERSONAL PROPERTY, TAKING CREDIT FOR ALL TAX PAID ON PURCHASES OF TANGIBLE PERSONAL PROPERTY

- IMPORT/EXPORT NEUTRALITY

TAX IMPOSED ON ALL IMPORTS AND REBATED ON EXPORTS

NATIONAL ENVIRONMENTAL EXCISE TAX (NEET) (CON'T)● COMPETITIVE IMPACT

SINCE NEET IS A VALUE ADDED TAX (VAT), THE IMPACT ON A MANUFACTURER'S UNIT COST IS THE SAME FOR ALL COMPETITORS

● ADMINISTRATIVE COST/COMPLEXITY

THERE WILL BE A DEGREE OF COMPLEXITY AND SOME ADDITIONAL ADMINISTRATIVE COSTS TO BOTH I.R.S. AND T/P UNDER THE NEET. HOWEVER, BY RESTRICTING THE NEET TO MANUFACTURING, THE COST AND COMPLEXITY IS LIMITED

● MANUFACTURING

CURRENT I.R.C. PROVISIONS AND/OR I.R.S. REG'S WILL BE UTILIZED TO DEVELOP A DEFINITION OF MANUFACTURING FOR THE NEET.

● EXCLUSIONS

FARMING, FISHING, FORESTRY, AND MINING ACTIVITIES ARE EXCLUDED FROM NEET

COMMUNITY AWARENESS AND EMERGENCY RESPONSE (CAER)  
AND  
NATIONAL CHEMICAL RESPONSE AND INFORMATION CENTER (NCRIC)

Background:

Media, Congressional, State and Local Government interest in Bhopal and on what our industry is doing to assure that a similar accident will not happen here continues to be strong. Many chemical companies continue to apprise CMA that they are reevaluating process safety in plants here and abroad and are updating and testing their emergency plans. On January 28, CMA's Board of Directors approved a two-part action plan -- Community Awareness and Emergency Response (CAER) and The National Chemical Response and Information Center (NCRIC) to demonstrate the industry's commitment to public safety and to reassure local and federal government officials and the public that appropriate actions are underway.

Status:

The two groups established to develop the basic plans for CAER and NCRIC under the coordination of Mr. E. Hamilton Hurst have completed their assignments. Implementation of their plans by CMA's standing committees should begin almost immediately.

Recommendations:Description of Plans

The detailed plans for establishing a Community Awareness and Emergency Response program and a National Chemical Response and Information Center are attached. Both initiatives are substantial undertakings and need heavy industry support to succeed. Through CAER, companies will work to familiarize the communities where their plants are located about safety and health risks associated with the storage, manufacture and distribution of their products. This will include establishing or improving an emergency response plan and catalyzing integration of all emergency plans in the community.

The success of the CAER depends on active participation by each company. Individual plant managers will spearhead the program by contacting the community, government and emergency responders.

NCRIC will be a clearinghouse for emergency and hazard information and will be used for training and response activities dealing with the use and distribution of chemicals.

When calls for information about the hazards of chemical products or processes are referred to companies, there must be a timely and pertinent response. Some companies are already geared to answer such questions. Others will have to establish a response system.

Implementation

Implementation of the plans should be assured by the following formal mandates to the Distribution Committee and the Health and Safety Committee. Additionally, key people who have

served on the planning groups should transition (with the plans) to task groups of the appropriate Committees to avoid any loss of continuity.

The Health and Safety Committee will:

- coordinate CMA's CAER program activities, with the exception of first responder training activities;
- measure and report on the local program's progress;
- serve as a resource for aiding plant managers to develop local programs;
- maintain effective communications and information transfer between CMA and those developing CAER programs;
- support other CMA groups by providing technical analyses of legislative proposals that might impede or advance the CAER program, and
- provide similar services for the Chemical Referral Center of the National Chemical Response and Information Center.

The Distribution Committee will:

- coordinate CMA's NCRIC program activities, with the exception of activities as they relate to the quality and availability of the MSDSs;
- measure and report on the program's progress;
- serve as a resource to elicit member company support and enrollment in the programs;
- maintain effective communications and information transfer between CMA and those developing the NCRIC programs;
- support other CMA groups by providing technical analyses of legislative or regulatory proposals that might impede or advance the NCRIC program, and
- act as a resource to the CAER program with respect to first responder training.

Costs:

Funds for the CAER initiatives which include publications, training and seminars and consultants, are not included in the CMA FY 85/86 budget. Currently, CMA's draft FY 85/86 budget proposal includes only two line items for NCRIC, \$85,000 for developing materials for First Responder Training and \$95,000. a priority #2 item, for setting up the Chemical Response Center.

Action Required:

Approve the attached plans and the mandates to the Distribution Committee and to the Health and Safety Committee.

EC 03/05/85

CMA 044368

COMMUNITY AWARENESS AND EMERGENCY RESPONSE (CAER):  
PLAN DEVELOPMENT FOR HANDLING  
INDUSTRY, NATURAL OCCURRANCES, TRANSPORTATION EMERGENCIES

A Plan to Review, Renew, Revitalize and Communicate  
Community Emergency Response Programs

Prepared by the  
Chemical Manufacturers Association  
2501 M Street, NW  
Washington, D.C. 20037

(202)887-1100

February 28, 1985



CMA 044370

## INTRODUCTION

The American public is asking -- Can a serious chemical emergency happen here? and, What is the industry doing to prevent it?

These two questions represent the major thrusts and concerns of our government officials, both state and federal, reflecting the questions and comments they are receiving from their constituents and other public interest groups. The chemical industry has an opportunity to step forward and discuss not only those programs now in place, but to initiate timely new programs that demonstrate the industry's commitment to safe operating practices, protection of the environment and the protection of human health.

These questions require action at both local and national levels by the industry. On the one hand, programs must be put in place or strengthened (whichever the case) at local plant levels if we are to effectively control those operations where potentially hazardous chemicals may be manufactured or used. On the other hand, systems must be in place either nationally or regionally to respond to those incidents which may develop or to satisfy the need for information about chemicals and their hazards.

Chemical Manufacturers Association (CMA) has developed two major new initiatives to respond to the above needs.

- Community Awareness and Emergency Response (CAER)
- The National Chemical Response and Information Center (NCRIC)

### Community Awareness and Emergency Response - (CAER)

CAER is a program developed by CMA for use at local point levels to assist local chemical plant managers in:

- Reviewing emergency plans now in existence.
- Developing plans if none exist.
- Integrating chemical plant emergency plans with community emergency plans to cover all types of emergencies.
- Communicating with and involving the local community in developing, implementing and perfecting the plan.

The CAER program is designed to assist in constructing plans that fit the needs of each locale. Some of the plans are sophisticated and involve multi-plant locations within the community. Others are limited in view of the nature of the risks involved. CAER is designed to catalyze the proper assessment of the risks of chemicals within the community either at specific plant locations or along routes of transportation and to develop emergency programs that serve the particular needs of the community, including all emergencies (chemical, natural, nuclear, etc.).

### National Chemical Response and Information Center - (NCRIC)

NCRIC is a new center to be established at CMA Headquarters in Washington, D.C. to provide:

- Hands on assistance in responding to emergencies.

- Chemical Hazard Information Referral Services, and a
- First Responder Training Program.

NCRIC will include the highly successful CHEMTREC Program operated since September 1971 by CMA. This program will be expanded to cover not just transportation emergencies but all types of chemical emergencies -- either site specific, transportation, medical or environmental. By telecommunication facilities, CHEMTREC can contact the needed assistance - medical, environmental clean-up, etc., and assist in coordinating responses to the emergency.

A new program - CHEMNET - is being developed to work with CHEMTREC responding to emergencies. CHEMNET will arrange coverage at the emergency site by trained experts. CHEMNET will operate as a mutual self-help emergency program similar to already existing programs such as:

- CHLOREP (Chlorine Emergency Response Plan) - administered by the Chlorine Institute.
- LPG Network - operated by the National Liquefied Petroleum Gas Assn.
- Others coordinated by CMA for:
  - Phosphorus
  - Vinyl Chloride
  - Hydrogen Cyanide
  - Hydrogen Fluoride

All of these networks can be activated through a call to CHEMTREC

CMA will continue first responder training programs offered at regular intervals at various locations around the country.

The new chemical hazard information referral program will provide a single contact point using an 800 number for those seeking hazard information on chemicals. Participating companies will list trade name products at the Center along with appropriate phone contacts for hazard information on chemicals in non emergency situations.

NCRIC will serve an overall need to coordinate responses to requests for emergency information, assistance, training, and general non emergency hazard information on chemicals. In effect, it will become an "Information Switch-board" for those wanting help or assistance from the chemical industry.

These two important new initiatives -- CAER and NCRIC -- represent major steps by the chemical industry to strengthen emergency programs, provide assistance where needed and increase the availability of chemical hazard information to the public. These programs along with the efforts of the individual members of the industry demonstrate the willingness, interest and commitment of the industry to be a safe and welcome member of the community.

02/28/85

CMA 044372

## NATIONAL CHEMICAL RESPONSE AND INFORMATION CENTER

### Background

Out of 30,000 calls handled by CHEMTREC in 1984, approximately 10,000 were calls requesting nonemergency information on chemicals. Thus, nearly one-third of the calls to CHEMTREC were for nonemergency information, tying up the emergency personnel in handling calls they really were not set up to handle. Of these calls:

- 25% were from homes
- 25% were from workers at plants wanting information on chemicals
- 13% were requests for information on disposal of chemicals
- 13% were from fire department personnel exposed to chemicals
- 10% were from police department personnel seeking regulatory information (DOT)
- 13% were miscellaneous
- 2% were from students

These calls came in primarily from 8:00 a.m. to 11:00 p.m. because of various time zones across the country. CHEMTREC provides what information they can which is unsatisfactory in most cases and often they have to tell the person calling to "clear the emergency line".

Program -- NCRIC will cover on a broad umbrella basis, the existing elements historically sponsored by CMA:

### CHEMTREC

Training of Emergency Response Teams -- will be joined by two entirely new programs and CHEMTREC will be expanded to cover all types of emergencies, not just transportation emergencies, under the overall NCRIC program.

The new and expanded elements of NCRIC will be:

CHEMNET -- an emergency response program to provide on-site assistance by trained professional.

Chemical Referral Center -- an "information central" contact to direct callers to chemical companies who can answer their questions on chemical hazards or other nonemergency requests.

For Emergency Response:

Transportation -- Call CHEMTREC

Medical -- Call CHEMTREC

Air Release -- Call CHEMTREC

CHEMTREC will continue to handle transportation emergencies as in the past. It will be expanded to also handle medical emergencies by telecommunication bridging between emergency physicians and company departments to provide assistance on medical treatment. CHEMTREC will also handle other emergencies such as chemical releases into the air that may present an emergency. It will provide

critical telecommunications help between local emergency teams, chemical company experts and other emergency response teams.

CHEMNET services can be accessed through calling CHEMTREC. To handle nonemergency information requests, the Chemical Referral Center (800-CHEM-AID) will be established. All calls received on this number will be taped and first be qualified to determine if they are emergency calls or involve an emergency. If so, they will be transferred to CHEMTREC personnel.

If they are nonemergency, the Center will collect information on the chemical(s) and will refer them to the manufacturer of the product.

To establish the Chemical Reference Center, the chemical industry will need to provide the following information to the Center:

Name of company

Address of company

Telephone number of personnel who will handle these calls

Hours of operation of company contact

Trade names of products manufactured

CAS numbers of products if applicable

To assist CHEMTREC -- the chemical industry will need to provide the following information to CHEMTREC.

Name of company

Address of company

Telephone numbers (on a 24-hour basis) of emergency center.

If not a 24-hour phone number, then provide hours of operation and number to call after hours.

Names of chemical products and emergency response information for products (MSDSs or other).

To establish NCRIC, CMA will:

1. Prepare promotional information to encourage participation by industry.
2. Prepare promotional literature and information for use by companies.
3. Prepare advertising program.
4. Contact other trade associations:
  - Chemical
  - Nonchemical
5. Establish contact with other emergency centers:
  - Poison Control Center
  - State Emergency Planning Center
  - FEMA
  - DOT

6. CMA will evaluate how to charge nonmembers a fee for use of the program services (annual or per call basis).
7. CMA will evaluate methods of handling liability assumed by CMA from both the expanded CHEMTREC program and the Chemical Referral Center. This may include establishing a subsidiary or other means.
8. CMA should evaluate expansion of first responder training (Emergency Response Team Workshop) programs to include persons other than member companies such as fire and police department personnel.
9. CMA will explore ways to introduce and get Good Samaritan Laws passed on a federal basis.

CAER -- A DEFINITION

CAER is an integrated public and private sector initiative to revitalize, renew or establish emergency response plans and communications networks to protect the general public that could be affected by an emergency incident of any type. Pertinent information about the plans will be made available to the general public, emergency service personnel and employees.

# # # #

CMA  
EC-3/6/85

CMA 044376

## COMMUNITY AWARENESS AND EMERGENCY RESPONSE

The CAER program covers two important concepts:

Community Awareness

Emergency Response

These two concepts together form the basis for an overall program to assure the local community that the chemical industry has programs in place to safely handle the products they manufacture or process.

Community Awareness covers the following concepts:

1. All segments of the public should have access to information on hazardous chemicals.
2. At a minimum, MSDS, lists of workplace hazardous substances and written hazard communications programs that are developed by employers under the federal OSHA hazard communications standard should be provided to the public.

"CMA will encourage its members to work with state authorities in the development of state laws where appropriate to include the above principles in any legislative initiatives that may develop."

Regardless of any legislative initiatives, CMA member companies will voluntarily follow the above principles in working with local community leaders and the public to provide information on the operation of the company to their local community. The ultimate objective of such efforts will be to develop coordinated emergency plans for the community which will cover reasonable concerns about hazards emanating from natural occurrences, chemical operations, transportation incidents and utility failures.

The CAER program is designed to assist our member companies in their efforts to make their communities aware and to build coordinated emergency plans. The program suggests how to develop programs and their content, and the materials will provide illustrations rather than guidelines that must be used for all situations and emergencies. The program will include the following in workbook form:

Community awareness (right-to-know) principles (submitted to the Executive Committee on March 6 as a separate tab item)

Eleven elements common to effective emergency plans

Details of these elements

Examples of how companies have accomplished these elements

Examples of overall coordinated planning

In-plant emergency plans

Community plans

County plans

State plans

Utility plans

References for effective emergency planning (volumes from FEMA and DOT, as well as "Getting to Yes" on successful negotiating) and a survey used by the City of Memphis to gather information for emergency planning.

Examples of community involvement

Steps to establishing a Hazard Materials Advisory Council

Louisiana Chemical Assn. plan to promote community awareness.

The CAER program will emphasize chemical manufacturing sites first and foremost, but each company should consider its application at the following.

Manufacturing facilities

Distribution facilities

Warehouses

Customers

Recommended implementation of CAER is the last element of the plan.

CMA follow-up will be accomplished by a resource group composed of members of the CAER Work Group, CMA staff and line personnel. The function of this group will be to urge support for the program, develop publicity, relay information to plant managers and keep track of major progress. The group will also make sure that the widest use is made of CICs and that local plants are encouraged to coordinate and support local coordinated projects. Follow-up also will include training on specific elements.

## OVERVIEW

Each community program for emergency response must be tailored to its own specific community. There are eleven elements common to an effective community emergency response program:

- identify key players and establish their roles, resources and concerns - real and perceived,
- evaluate risks based on magnitude and type,
- know what plans or planning exists,
- initiate Overall Community Plan Development by identifying tasks that need to be done to address risks based on the magnitude and type,
- match tasks to available resources,
- evaluate existing individual plans to identify weaknesses in: adequate risk reduction, coordination and task completion,
- make changes necessary to integrate individual plans into the overall community plan, develop strategies to improve existing plans and gain agreement on an overall coordinated plan,
- commit the coordinated plan to writing,
- train emergency responders and educate the players,
- establish procedures for periodic testing, review and updating the plan, and raising community comprehension, and
- promote the total community emergency plan to the public at large.

## DETAILED PLAN

This program outline, with suggested considerations, will serve as a guide for plant managers and the community at large to develop or refine a comprehensive emergency response plan and community awareness program that will assure a response to emergencies.

Each community is unique, so it will be necessary for organizing groups to tailor their plan to their own community. This guide and listed references serve as reminders to identify the appropriate elements of good planning.

Each plan is only as good as the total commitment of those who must work together during an emergency. Therefore, total agreement of all the players on their respective roles, their resources and the lines of authority are essential to a functional emergency response plan. The only way to achieve this goal is to have all the players involved as early as possible in the planning process and in testing the plan. These guidelines are designed to help you achieve that major goal.

Each of the eleven elements are listed below along with suggestions for consideration. This document represents a distillation of many plans and was developed by company emergency response management experts from eight chemical companies. The examples are gleaned from what these experts felt were the best plans.

When you evaluate your internal plan, and the community plan, it is helpful to use a matrix such as Figure 1. This will allow the strengths and weaknesses to become apparent immediately. Figure 2 represents a flow diagram of the planning and implementation process. Please note that there are many feedback loops. A successful emergency response plan has many reiterative refinements, and will need regular reevaluation if it is to remain current.

Identify the key players and establish their respective roles, resources and concerns -- Real and Perceived.

Key players often extend beyond the traditional emergency response professionals. It is essential that these people are identified and involved in the process. Their resources should be identified in the process, and their real and perceived concerns must be identified and addressed.

The players include, but are not limited to:

- Industry
  - nuclear power plants (they will have well developed plans)
  - other chemical plants
  - warehouses
  - other industries that use chemicals
  - utilities
  - transportation companies
- Government
  - disaster planning/action committee
  - law enforcement
    - first responders
    - specialized response teams
    - management
  - fire fighters
    - first responders
    - specialized response teams
    - management
  - health department
  - public works
    - sewers and sewage treatment plants
    - water reservoirs and water treatment plants
  - environmental protection
  - transportation
    - highway
    - rail
    - truck
    - maritime (port authorities, Coast Guard, COE)
- Other institutions
  - material and equipment resource suppliers
  - professional societies (physicians, engineers, toxicologists)
  - clubs and fraternal groups (Elks, ham radio operators, van clubs, Rotary, etc.)
  - print media
  - broadcast media
  - hospitals, clinics and other medical services (ambulance companies and mortuaries)
  - libraries with central information
- Public and community at large
  - advisory committees and groups for agencies
  - activist groups
  - sensitive and high density sites (hospitals, schools, etc.)
  - labor groups

Organizing forces vary from community to community. In our study cases the organizers have been:

- a fire chief
- a state senator
- a plant manager

The key in successful programs is maintaining a positive and constructive, people-to-people approach to the process.

Steering groups comprised of a broad base of officials have been successful when participants have been high enough in their organizations to speak on behalf of them and they were able to commit participation in group objectives and willing to compromise.

Evaluate the Risk  
Based on Magnitude  
and Type.

Plans must address the realm of possibility. Possible events should be identified, and their probability of occurrence along with what effect they would have must be assessed to set priorities for planning and inclusion or exclusion from the plan.

Identify and evaluate (qualitative and quantitative) the possible risks:

- types of hazards a community can face
  - natural disasters
  - nuclear incidents
  - chemical facility incidents
  - other industrial incidents
  - transportation incidents
- magnitude and severity of impact
  - potential zones of impact
  - severity of impact
  - number of people at risk
  - long term effects
  - sensitive environmental areas
- probability of occurrence
  - probability of happening
  - sensitive environmental areas
  - unique topographical considerations
    - wind conditions
    - flood plains
    - valley or mountains
    - access
  - probability of simultaneous events
    - truck and train collision with hazardous materials involved
    - air plane crash into plant
    - interaction of natural and man-made events
  - etc.
- most probable scenario determination
  - from the aggregated analysis above, determine
    - the most probable events
    - the reasonably possible events

developed by industry and sent out by the fire department, to establish contact with business, develop preplanning information, and assess the nature and location of fixed facility risks.

State Transportation Departments, Federal Rail Road Administration, U. S. Coast Guard, Airport Authorities and local police and fire departments can help establish nature, quantity and mode for transported materials.

In one city, this type study identified one specific Interstate Highway interchange that had a high frequency of tank truck rollovers and improved warnings are planned.

In one county, the risk evaluation lead to the development of specific product references, training and the formation of a chemical hazards information team from a broad base within the community.

One community spent little time on evaluating risk, deciding to focus their energies on better organization for response on the assumption that they had a wide range of chemicals present.

One town developed a family of worst cases "What if . . ." scenarios, obviously an exercise in speculation, but useful in realistic response time and resource management.

This step generally requires a thorough definition of "what" must be done, with broad based input. For example, firefighting, traffic control, downwind air monitoring, casualty triage, transfer and treatment, altering, evacuation, spill containment, etc.

Review all Existing Plans

Emergency plans exist in various forms for most areas. Identify the plans developed within industrial facilities and the community at large.

These plans are available from the Federal and State Emergency Management Authorities, State Police and Fire Marshals, county and city organizations, industrial associations, hospitals and public works.

Collect all available plans including, but not limited to:

- natural disasters
  - hurricanes, cyclones, other extreme weather
  - earthquakes
  - floods
  - forest fires
  - etiological agents
- military events
  - invasion
  - terrorism
  - radiological disaster
- industrial accidents
  - toxic releases
  - explosions
  - fires
  - radiological
- transportation accidents
  - air plane crashes
  - highway
  - rail
  - waterway
  - pipeline

One group "piggybacked" hazardous materials response in an existing and workable natural disaster plan for traffic control, evacuation and shelter.

The Federal Government requires nuclear power plants to have detailed emergency response plans. If there is a nuclear facility nearby, integration of hazardous materials into the existing plan should reduce the overall planning workload.

One group based their proactive, broadbased efforts on the foundation provided by an equipment/resources sharing industrial mutual aid organization.

Coast Guard and EPA Response Team plans were not altered, but integrated into the community plan when these resources were readily available.

One city's 13 hospitals already had a mass casualty plan and drilled that plan, however, industrial medical resources (doctors, protocols, antidotes) were not considered until community-wide hazardous materials planning was done.

Initiate overall Community Plan Development by identifying risks that need to be addressed risks based on the magnitude and type.

Once the risks are evaluated, existing plans should be evaluated to determine if there is an adequate plan to address reasonable risks. If there is not, then tasks that need to be done are identified.

Areas to be considered include, but are not limited to:

- monitoring
  - continuous plant monitoring for hazardous air pollutants
  - portable field equipment suitable for the identified risk
    - radiation detectors
    - portable gas chromatographs
    - wet chemistry systems
    - etc.
  - prediction
    - real-time computer predictive model systems
    - field systems
  - evaluation
    - risk charts for hazardous materials
- evacuation
  - identify responsible lead agency
  - identify degree of risk for decision
  - phased area -- immediate impact, diffused zone
- traffic control
  - who is responsible
  - criteria for safe zone
  - identification system for emergency responders
  - access for emergency vehicles
- notification
  - who is notified
  - in what order
  - what information
  - how are they notified
  - when to seek additional assistance beyond the community
  - CHEMTREC
  - contingency plan for loss of normal communication channels
- return to normalcy
  - criteria for return to normal conditions
  - determination of acceptable safety levels

This step has required extensive negotiation and compromise in several communities. Industrial leaders were key arbitrators in resolving conflicts between public agencies in at least one community.

One plan recognized that police resources were scarce and used volunteer firefighters from a nearby community for traffic and perimeter control.

"Who's in charge?" was a question presenting a barrier in one community. It was resolved with a short-term agreement to establish a multi-agency "command post."

One director of the County Office of Emergency Management presented many roadblocks at this step, citing "lack of funding." Each was resolved through industry initiative, except for one \$2,000 capital request which was supported by local plant managers and promptly authorized by county officials. Examples of industry assistance were:

- o providing reference texts to key response groups,
- o inclusion of various county agencies into the industrial mutual aid (equipment sharing) network,
- o development of a firefighting foam supply plan, and donation of two air monitoring kits to the fire department.

Match Identified Tasks  
with Available Resources.

Each defined task should be assigned to the participant who can best address that aspect. This involves multiple resources -- working together -- to complete the plan. Assignments are made based on authority jurisdiction, expertise or resources, etc. Any group with something constructive to offer should be included.

Dates for completion must be established along with a check system to assure that they have been completed.

- Define assignments
  - resources
  - training
  - timing
- Establish completion schedules
- Establish monitoring system to assure that tasks are completed
- Schedule review meetings to assure coordination of all tasks
- resources
  - people
    - training
  - equipment
    - location
    - adequacy
    - maintenance program
  - supplies
  - backup systems
  - multiplicity
    - in what order are they activated
    - logistics
  - lines of authority
  - funding
- timing
  - 24-hour contact and availability

Matching tasks, identifying weaknesses and developing strategies go hand-in-hand and represent the heart of the planning process. Done skillfully, these steps for the nucleus of better cooperation and improvement in the community's ability to manage hazardous materials emergencies.

The most frequently identified weakness is in communications, with inadequate resources a close second. This is manifested in a longer response time, rather than availability.

A clearly defined command structure is often cited as a weakness, but often becomes less critical as "command posts" are established and the multitude of tasks is assigned and appreciated. Often a frank discussion of roles (operating responsibilities and zones, limitation and capabilities) will demonstrate that each group operating in a coordinated fashion is critical to success and that the OIC (Officer in Charge) becomes a multi-group facilitator.

Evaluate existing individual plans. Identify weaknesses in adequate risk reduction, coordination and task completion.

Once the modified community plan is complete, individual unit plans such as the company internal plan, the police or firemen's plan and the disaster control agency's plan must be reviewed to see that they are consistent with the overall community plan. The plan must be reviewed to assure compliance with all appropriate laws and regulations.

Examples are:

Evaluate the existing plans to see if there are:

- a clearly identified person in charge of the event
  - is that person consistent between plans?
  - is there a conflict?
- clearly defined and coordinated roles
  - local
  - county
  - state
  - federal
- adequate communication systems
  - to and between emergency responders
  - to the affected community
- adequate resources
- trained and equipped responders
- adequate traffic control provisions
- consideration of public works and utilities
- adequate evacuation plans specific for the area
- adequate plans for special groups
  - hospitals
  - nursing homes
  - schools

listing objectives, developing action plans, and setting priorities can be most helpful at this point. One community resolving jurisdictional conflict required involvement of the highest elected officials to resolve the conflict in a positive fashion. In one state, four separate groups were charged with hazardous materials emergency responsibility by the legislature and state law had to be changed to clarify roles. In this case, a consultative team from three of the groups was established as a compromise, with the fourth group agreeing that their role was subordinate to the consultative team.

In one community, communication to the media was recognized as a means to reach large numbers of people quickly and procedures were established to use tone activated monitors on an emergency frequency to alert and update radio and TV stations directly. These monitors are being purchased by the individual stations at no cost to the community.

Another community identified that first responders had a basic hazardous materials awareness but officers lacked strategy and tactics training. A Training subcommittee developed and conducted this training using primarily industrial safety and fire supervisors as instructors at minimal community cost. One company underwrote the cost of training materials, about \$800.

Make changes necessary to integrate individual plans into the overall community plan, develop strategies to improve existing plans and gain agreement on an overall coordinated plan.

The plan must be tested through paper drills and areas of failure or weakness identified. The planners then must critique the plan and correct it.

- assess significance of the weaknesses
  - does it threaten plan effectiveness?
  - is it important?
- Identify the type of weakness
  - structural
  - procedural
  - jurisdictional
  - roles of players
  - confused lines of authority
- set priorities for correction
- assign tasks for correction
- implement new policies and procedures
- communicate the changes
- gain agreement

The key operative word here is compromise.

A key concept at this step is to keep it simple.

Successful plans have been brief, supplemented with extensive appendices.

Successful plans have generally fallen into the following categories based on community need:

- Telephone roster
- Action guide/check list
- Resource/capabilities list, agreement to share
- A coordinating plan with action checklist for field use.

Comprehensive response plans are often burdensome due to their depth of detail and lack of flexibility. One such plan developed for a nuclear power station constituted five 3-ring binders with unwieldy detail. However, another nuclear power station plan was distilled into a few pages for general training and execution.

One community which was having difficulty gaining agreement assembled their chief public and private officials to develop a "strategy" rather than resolve conflict. The resultant "strategy" was to assemble a high level planning team (Deputy Chiefs, Assistant Directors, Assistant Plant Managers, etc.) and assign them full time to the task. The team met at a training academy conference room and developed an acceptable plan in five 9-hour days. This was an extreme measure that worked.

Once the plan has been defined, tested and corrected, it should be committed to paper and a written agreement of the plans and respective roles established.

The plan should be as short as possible so that it can be read quickly during an emergency. It should include:

- a series of performance standards
  - checklist of all elements in the plan
- performance measures to ensure that each performance standard is satisfied
- an annual review and appropriate update
- a plan to communicate with the community

... group a situation must understand and accept their role and their relationships with other groups if real progress is to result. The focus must be on response operations, large and small.

CMA 044388

Train Emergency Respon-  
ders and Educate the  
Players.

The Community Awareness and Emergency Response Plan must have a communication component that reaches all involved and impacted groups. It should include:

- public meetings
- private meetings
- community groups
  - Rotary
  - Kiwanis
  - General Federation of Women's Clubs
  - League of Women Voters
  - Garden Clubs
  - environmental and conservation groups
  - Chamber of Commerce
  - schools
  - hospitals
- print media, radio and television
- printed materials, mailings, tapes, videocassettes
- management and employees of all groups
- scheduled repetition, replay and reminders

Training of the participants is essential to an effective emergency response program. All participants should:

- rehearse individual roles
- escalate and enhance training with addition of more than one agency and complicating factors
- rehearse internally and externally then combine
- run simulation and tape
- schedule review and rehearse periodically

One county planning team included a half day seminar to educate and train mayors, commissioners and department heads on their roles, including media relations.

One state planning group used training in the plan as an opportunity to "cross train" agencies, so that, as an example, the environmental resources department was trained by firefighters in the use of protective clothing and breathing apparatus, while the firefighters were trained by the environmental and industry experts on airborne contaminant monitoring strategies and practices on containment and diversion diking. The "real" benefit was a shared awareness of the value of both functions.

Another community followed their planned communication and training with simulation exercises conducted by the state fire training agency and a local community college. The exercise was covered by the media, who also participated, as a demonstration that the community, including industry, was "doing something" to improve preparedness.

To improve public confidence, one community established "speaking teams" of public and private officials, who visited public group meeting, schools, the Chamber of Commerce, and others to discuss progress.

on Periodic Testing,  
Review and Update of  
the Plan and Relating  
Community Comprehension.

Emergency responders could test their plans on a regular basis. They should not be afraid of mistakes -- that is what drills are designed to identify. Any mistakes should be corrected in the plan and the training plan.

such as:

- fire department
- police
- hospitals
- local government
- press
- community

Some measure of community comprehension such as a survey should be used to evaluate the community's understanding of the plan.

Nothing can replace a full scale community emergency response drill as a focus on capabilities and an opportunity to identify further improvement areas.

Preplanning the drill and its evaluation process is critical to maintaining a positive, constructive environment.

One community conducted media workshops, two days before the drills, to explain the drill, allow the media to develop a work schedule to cover the drill, and assure that their needs were met. This included recommendations where they could get good action-oriented visuals, background statements, and drill scenario details. Radio stations, dealing in immediacy, need regular updates from the scene which was accommodated by providing a mobile telephone at the scene, patched to all the interested radio stations. Updates were phoned in at the quarter and three-quarter hour points for broadcast on the hour and half-hour news.

Several communities have used elected public officials, who were involved in the planning, to serve as spokespersons. They are generally skilled at dealing with the media and they represent the public interests. It also establishes them as part of the response effort. However, to assure that key points are reinforced, spokespersons should be provided with a "Key Talking Points" outline, stressing the cooperation of all involved and the drill's purpose of identifying further areas of improvement.

Interagency cooperation has been a key focus in many drills. For example, designating one fire engine to provide decontamination services to paramedics and ambulance crews, plant physicians response and support at designated emergency rooms, industrial response team support of public agencies, Coast Guard spill control activities, simulated community alerting/evacuation/return, etc.

CMA 044390

Promote the Total Community Emergency Plan to the Public at Large.

The more attention the program and the test drills receive, the greater the public acceptance of the plans. Every effort should be made for press coverage, community involvement and employee involvement.

The aforementioned planning process has two primary purposes:

- Improve community protection by meeting real needs and improving response, and
- Improve public confidence.

These efforts must be "sold" to the public if the second purpose is to be realized. This implies a sensitivity to media and public communications throughout. Planning leaders should regularly discuss "possibilities" and develop communication strategies, including:

- drill coverage
- presentations at city council, county commission meetings
- public group meeting such as the League of Women Voters, Chamber of Commerce, Rotary, concerned citizens groups, Press Clubs, etc.
- human interest pieces such as an industrial fire brigade training at the county training grounds, the local fire company on tour at a plant site, or an emergency room drill featuring hazardous materials.
- establish "technical experts within industry and academia for contact by the media in the technical aspects of "hazardous materials news."
- provide media training for plant managers and staff and response agency officers, perhaps using local media personnel as instructors.

More than one community has established a MESAC, Media Emergency Services Advisory Council, as an ongoing forum to address issues and improve media/public relations in general.

One community embraced the media as partners in emergency response planning, resulting in higher quality communication during emergencies and improved coverage otherwise.

Several communities have used fire service and industrial personnel to instruct a course on "Media Safety at the Emergency Scene," to enhance their safety, describe operational procedures and jargon and establish relationships. This type of course must have the support of assignment editors and be repetitive since reporter turnover is high.

Plant newspaper articles are important to assure that the primary industrial public (its employees) are aware of and support preparedness efforts.

FIGURE 1

|                       |   |                   |   |                  |   |                  |   |
|-----------------------|---|-------------------|---|------------------|---|------------------|---|
| 1. Govt. Agencies     | 0 | Disaster Planning | 0 | Other Companies  | 0 | ER Plans Gov.    | 0 |
| 2. Bus/Inst.          | 0 | Law Enforcement   | 0 | Material/Equip.  | 0 | ER Plans P/E Co. | 0 |
| 3. Public/Comm        | 0 | Fire Fighting     | 0 | Prof. Societies  | 0 | County ER        | 0 |
| 4. Planning           | 0 | Health Department | 0 | Clubs, etc.      | 0 | State ER         | 0 |
| 5. Evaluation of Risk | 0 | Public Works      | 0 | Media            | 0 | Fed. ER          | 0 |
| 6. Tasks              | 0 | Env. Protection   | 0 | Hospital/Clinics | 0 | Ind/Industries   | 0 |
| 7. Task/Resources     | 0 | Maritime          | 0 | Utilities        | 0 | Institutions     | 0 |
| 8. Weaknesses         | 0 | Transportation    | 0 |                  |   |                  |   |
| 9. Strategies         | 0 |                   |   |                  |   |                  |   |
| 10. Commitments       | 0 |                   |   |                  |   |                  |   |
| 11. Comm/Train        | 0 |                   |   |                  |   |                  |   |
| 12. Test/Recycle      | 0 |                   |   |                  |   |                  |   |
| 13. Sell              | 0 |                   |   |                  |   |                  |   |

Poor 0

Marginal 0

Adequate 0

Above Average 0

FIGURE 2

## CAER PROGRAM FLOW CHART

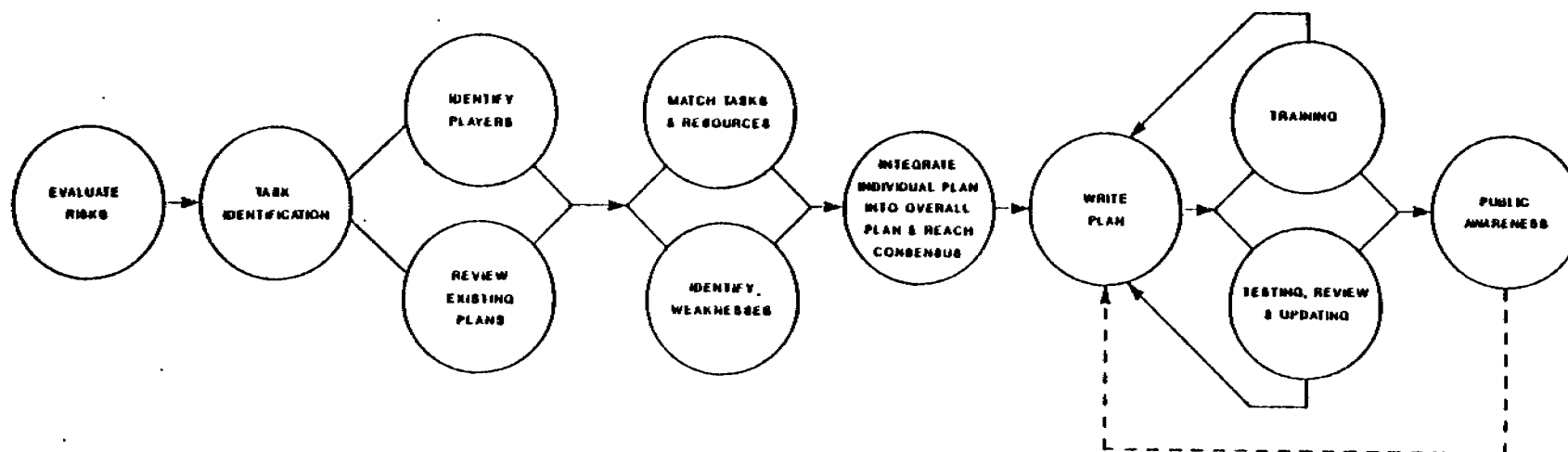


FIG. 2

DRAFT IMPLEMENTATION AND COMMUNICATIONS PLAN--CAER (as approved)

Objective: Demystify the chemical industry so that all segments of the public feel comfortable with the industry in their midst. The public must also feel confident that industry, working with government officials and members of the local community, has developed programs to respond to emergencies and to protect the public if incidents occur. Secondary objectives include gaining public recognition for these efforts and forestalling burdensome rules and regulations.

The CAER program must be based on a firm corporate commitment to employ plant managers in this effort and a firm commitment by the plant managers to actually implement programs in their communities. This commitment must make involvement and leadership in community CAER plans a part of the plant managers job description, and it must be backed by company policy and resources that support CAER.

The resources necessary to implement any community emergency plan will vary from area to area and from place to place, depending on sophistication of individual programs. Additional resources, both fiscal and--perhaps even more importantly--personnel, will have to be added to resources already allocated at the national, state and local level.

Implementation and communication of CAER will take place on three levels: National, state and local.

National level.

Upon approval of the plan by the Executive Committee, CMA must communicate the elements of the CAER plan to CEOs and at the same time to appropriate state organizations.

CEOs must then communicate to plant managers the corporate commitment to CAER and assign them the responsibility of carrying out CAER at their level. The goal is immediate plant manager involvement in CAER. (DIAGRAM 1 Indicates the flow of communications to the working level.)

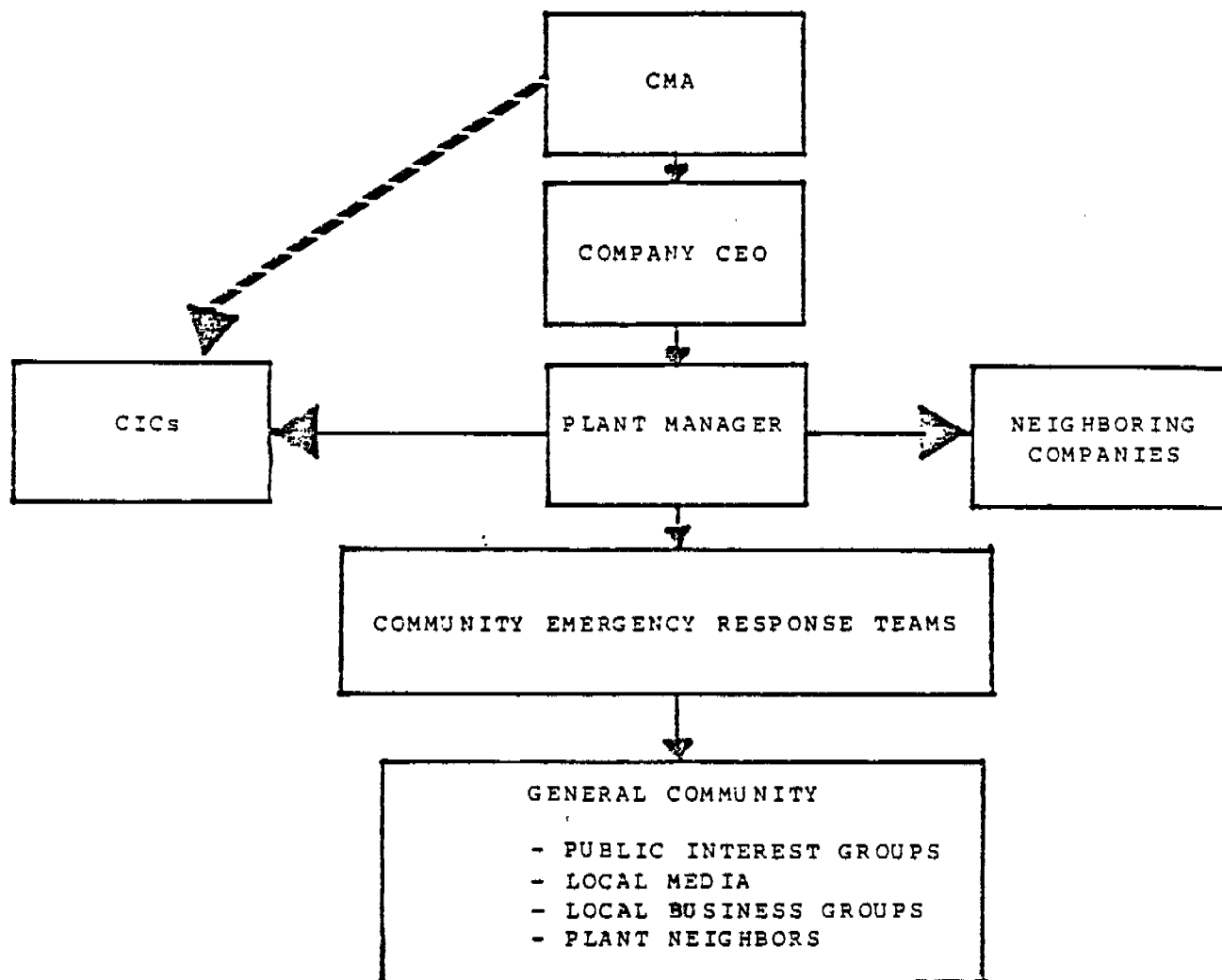


DIAGRAM 1. FLOW OF CAER INFORMATION TO WORKING LEVEL FOR IMPLEMENTATION.

CMA will announce the chemical industry initiatives at a national press conference. It will, before or after the conference as appropriate, also brief the following organizations, which are listed in priority.

First, members of the Council of Chemical Associations, national state and local government groups (e.g., National Council of State Legislatures, National Governors Association), national emergency responder groups (with special emphasis national fire training contacts), national government agencies (e.g., EPA, FEMA)

CMA will also have responsibility for briefing national legislative contacts and the Executive Branch, while state organizations will be responsible for briefing state counterparts of these entities.

The second group of organizations to be briefed includes other national and international trade associations, and other organizations that take a constructive public role.

Special consideration must be given to labor groups and the media, who will consider themselves as key players with a special role in the success or failure of any community emergency response plan.

ate Level.

The primary responsibility of state chemical organizations or other groups at the state level is to act as a catalyst to community programs, to give guidance to communities and to provide training as needed. It will also act as liaison with state organizations that are integral to emergency response, such as state police.

Lead organizations or groups will be responsible for briefing state counterparts to the national organizations and groups mentioned above. They will also be responsible for making announcements to the media about state or regional programs.

Community Level.

Emergency response planning begins at the state and community level. It is imperative at both these levels to include communications programs. While these programs have their public relations aspects, they should be structured so that the media are considered as key players, a part of the local planning group whose function is to make the public aware of emergency response plans and its responsibilities under them. This, indeed, is a key step in demystifying the chemical industry and reassuring the public so that

it is comfortable with the chemical facilities in its midst. It is equally important for state and local groups to work with politicians in developing and presenting the plans.

#### Resources.

CMA must establish a resource group to aid state and local groups and to measure progress. This group should be composed of line personnel active in their state or community programs and a core group of member company consultants volunteered to CMA.

CMA will aid state and local groups in developing communications materials to enable local groups to carry out their plans. It is expected that some local groups (LCA, for example) will also develop their own tailored materials. If at all possible, such materials should be constructed along modular principles, so that with a minimum of effort and expense, they can be adapted for use by other groups. All conventional communications efforts and materials will be used in the CAER program; these will be listed when detailed CAER programs are ready to be written.

It is assumed that the CAER effort will get underway in several states and many communities more or less at the same time. Nevertheless, it seems imperative that one or two organizations be given special aid and consideration by CMA as "lead" organizations. This would avoid the pitfalls of "pilot" programs, but would still enable CMA to use the lead organizations as learning laboratories, whose lessons could then be studied and applied by others.

National Chemical Response and Information Center (NCRIC)  
Charter, Operations and Plan for Implementation

I. Objectives

The National Chemical Response and Information Center is established to provide to the public and emergency response organizations information about chemicals and advice or assistance when an emergency occurs in their use, distribution, or manufacture. CMA will accomplish these objectives through four programs:

- CHEMTREC - Will continue to provide information to emergency response personnel and contact the shipper to obtain additional assistance in incidents involving chemicals. This service would be officially expanded to include non-transportation events.
- CHEMNET will provide actual on-site assistance in the event of serious transportation incidents through a mutual aid network of industry and for-hire emergency response teams. This program will operate through CHEMTREC. Membership in the network is at the discretion of individual CMA members.
- Emergency Response Training - Encompasses training materials to assist industry and rank and file firefighter and policeman in dealing with hazardous materials incidents. Currently CMA provides 2-3 workshops per year to train industry personnel. This would be expanded to include the development of "first responder" training materials. The objective of the first responder training would be to reduce injury, environmental damage, and identify sources of assistance for these personnel.
- Chemical Referral Center (CRC) - Would create a referral center that the general public could call to identify the correct information contact within the appropriate chemical company for information about chemicals. The center would maintain an index that relates chemical products to the producing company and a number for the general public to call for information.

II. Background

There are several issues and events that lead to the development of this program. In the past, concerns of private citizens, firefighters, policemen, local, state and federal authorities about the safe use, manufacture and distribution of chemicals

have caused the industry to propose and institute programs such as CHEMTREC.

During the past 3-4 years, the public has begun to demand even more of the industry. They have indicated that there must be an overall improvement in emergency response capabilities. Those demands are for better training; specialized local hazardous materials response teams; information about the chemicals; and where they are transported. Of those perceived needs, CMA could, through an expanded CHEMTREC, provide training materials for the local firefighters and policemen, hazards information, and actual on-scene assistance at an incident.

In fact, CHEMTREC has already become the visible CMA program through which this kind of service could be provided. CHEMTREC currently receives more than 30,000 calls per year, of those approximately 20,000 could be classified as information calls. CHEMTREC also receives requests for assistance in non-transportation incidents. Typically these are at warehouses, but calls are received concerning in-plant incidents. In 1984, 12% of the incidents handled by CHEMTREC were "non-transportation" related.

### III. Program Descriptions

#### A. CHEMTREC

The current CHEMTREC program provides information in two steps to those involved in transportation incidents involving chemicals. Step one is to provide the actual hazards and precautionary information on the product involved from the CHEMTREC files (based on company MSDSs) or directly from the company MSDS. Step two is a call to the shipper with a request that he or she contact the person in charge at the scene to provide additional information or assistance. CHEMTREC can facilitate the communications in these incidents by providing "hard copy" transmissions of incident information to shippers and by establishing a telephone conference between those at the scene and the shipper. Emergency medical information is currently provided to emergency personnel by giving first aid information from the MSDS and offering a contact with the shipper.

Changes proposed in this program include:

- 1) Referring information calls to the Chemical Referral Center (see part IIIC).

- 2) Increasing CHEMTREC's scope by officially accepting non-transportation related incidents.
- 3) Medical emergencies reported by emergency service organizations would be responded to by providing the appropriate first aid information and contact with the shipper/producer of the material for more assistance. Requests for first aid and medical advice for non-emergency service personnel would be referred to other organizations or the producer. If the producer is unknown, the caller would be referred to a local poison control center.

#### B. CHEMNET

The existing capabilities of the chemical emergency response personnel would be coordinated by CMA in a mutual aid network known as CHEMNET. The network would activate a chemical company emergency response expert to go to the scene when the shipper/manufacturer agrees that an industry presence is needed but cannot be provided by him, for reasons of availability or proximity. The CHEMNET program would also include the use of for-hire company responders to augment the industry's emergency response capabilities. Payments for service for-hire responders and reimbursement to other chemical company response teams would be the responsibility of the shipper/manufacturer. The specifics of CHEMNET may be found in the CHEMNET Agreement and Operating Rules (Attachment 1). This agreement would make formal the existing informal system of mutual aid between our members. It is similar in concept and operating practices to other mutual aid arrangements covering products such as chlorine and pesticides.

#### C. Emergency Response Training

There are a number of agencies, companies and associations that now provide training and training materials on methods to deal with hazardous materials incidents. CHEMTREC provides a course directed at industry personnel and has in the past provided training materials directed at the first responder. However, many firefighters and policemen still do not have access to training or the appropriate precautionary information when dealing with a hazardous materials incident.

This program would continue to provide the current Emergency Response Team Workshops (approximately 2-3 per year) and develop a program designed to train first responders. Elements of the expanded program include:

- 1) Establish a lending library of training materials developed by CMA and others.
- 2) Develop and distribute a training course (video plus manual) that will cover precautionary identification, and methods of obtaining assistance.
- 3) Continue to work with federal agencies and other associations toward a unified training curriculum and delivery mechanism.
- 4) Investigate the use of satellite delivery of the CMA developed training materials. A one time delivery through the NFPA satellite network to more than 14,000 sites is envisioned.
- 5) Investigate the production of computer discs for computer aided instruction of the basic curriculum.
- 6) Develop additional modules of the CMA training program on the subjects of containment and contingency planning.

A proposed curriculum for the video training course is attached in (Attachment 2).

D. Chemical Referral Center (CRC)

The CRC would facilitate the public's ability to gain information about chemical products and intermediates packaged for commerce by referring non-emergency inquiries to appropriate producers for response. CRC will also document the nature and disposition of these inquiries so that the chemical industry can gain additional insight on public interests and concerns.

CRC will maintain an "800" telephone number which will be available for non-emergency chemical information requests from the public. Staff, located at the Chemical Manufacturers Association in Washington, DC, will be available to receive calls on this number during normal business hours (weekdays 8:00 a.m. - 11:00 p.m. EST). The existence of the number will be publicized nationally, and telephone in-

quiries will be invited. A mailing address for written inquiries will also be provided.

Upon receipt of a telephone inquiry, CRC staff will first verify that it does not pertain to an emergency (i.e., a spill release or chemical exposure). All calls would be received on the CRC number. All emergency calls will be immediately routed to the CHEMTREC program which is designed to assist with emergency situations. The CHEMTREC program will continue to maintain its own emergency number for this purpose.

CRC staff will then relate the inquiry to a specific chemical manufacturer. This will be done by means of an index in which each participating company has indicated the names of the chemicals that it manufactures.

The caller will then be given the phone number of a company to be contacted for an answer to the non-emergency question. In cases where the question relates to a product which is manufactured by several participating companies, phone contacts for each will be provided. Mailing addresses for each company will also be given.

Companies will maintain a telephone number with adequate staffing to receive and respond to public inquiries referred by CRC. The scope and nature of the response information provided is at the discretion of the company, but CMA members have a responsibility to provide information on hazardous chemicals to the public.

CRC staff will provide a quarterly log to each company which had referrals during the previous quarter. Where the information is available, the report will give:

- Caller's name/affiliation
- Caller's phone number/address
- Date/time inquiry was received by CRC
- Nature of the inquiry

CRC staff will prepare an annual report to all member companies. This report will categorize the nature of the different inquiries, and characterize the means by which they were satisfied. No specific information on individual products or companies will be given. Rather, the annual report will be geared toward identifying general areas of interest or concern.

Companies would be asked to have a designated office to respond to referral inquiries, provide CRC an index to their products and provide the disposition of referrals on the quarterly log.

#### IV. Liability Concerns

Liability issues associated with the NCRIC program include:

- Current liability of the CHEMTREC program.
- Expansion of the CHEMTREC program to formally provide precautionary and first aid advice to emergency service personnel involved in non-transportation emergencies, to provide a referral service to non-emergency response personnel who need emergency information, and to provide a referral service to all callers that need non-emergency information.
- The quality of MSDSs that the producers will use to provide hazards information.
- The consistency of MSDSs for the same product amongst the manufacturers.
- Greater CMA involvement with the public is likely to result in more suits and defense costs, regardless of whether CMA was negligent.
- Lack of state Good Samaritan legislation in 18 states and lack of adequate coverage in some of the states that have adopted such legislation.

**PRIVILEGED MATERIAL REDACTED**

## PRIVILEGED MATERIAL REDACTED

### V. Costs

Of the programs described in this document CRC and the first responder training programs would entail incremental costs. The CRC program would cost, as outlined above, approximately \$95,000 year. This amount is included as a priority 2 item in the FY 85/86 budget request. The first responder training effort, as outlined in this document, would cost approximately \$100,000 in the first year and \$75,000 for each additional year that training materials are produced and distributed.

Costs of any increased liability insurance are not included in this description will be factored into final costs estimates.

### VI. Implementation

The NCRIC program would be implemented as follows:

Announce the expansion of the CHEMTREC program and the establishment of the CHEMNET program.

- Begin operations of the CHEMNET program as soon as sufficient members have signed the agreement and the for-hire contractors have been selected (August, 1985). This is subject to the availability of liability insurance.
- Complete the formulation of the first responder training program and request Board approval (April, 1985).

Produce and distribute the first responder training materials (October, 1985). Budget approval would be necessary.

- Complete planning, begin training personnel and purchasing equipment for the center (June, 1985). Budget approval would be necessary. (Currently a Priority 2 item).
- Announce start-up of the CRC in Fall 1985.

CHEMNET POLICY STATEMENT AND AGREEMENT

Policy:

It is the policy of the Chemical Manufacturers Association (CMA) to promote the safe distribution of chemicals. In the event of a distribution incident, the consequences of a chemical spill or potential release may be made less serious if a chemical expert is available at the scene to give advice and assistance. Occasionally, however, the shipper's response team may be too far from a chemical incident to arrive at the scene in the first crucial hours of an incident.

As a voluntary public service, CMA will therefore coordinate chemical company and for-hire response teams in "CHEMNET" (the Chemical Network), which is a mutual aid network that is intended to provide technical expertise and assistance at the scene of serious chemical distribution incidents when the shipper cannot respond promptly. The fundamentals of CHEMNET are:

- ° If the shipper cannot respond promptly to an incident that requires the presence of a chemical expert, the shipper, through CMA, will request a nearby chemical company to respond to the scene. If another chemical company cannot respond, the shipper, through CMA, will authorize a for-hire response company to go to the scene;
- ° Only chemical company and for-hire responders that are qualified to handle the hazards of the particular chemical or class of chemicals involved in the incident will be requested to respond;
- ° Response by a chemical company to another shipper's incident is discretionary;
- ° The shipper, upon request, will reimburse the responding chemical company or for-hire company for reasonable expenses.

Agreement:

WHEREAS, the undersigned company agrees with the above CHEMNET policy statement and the Company desires to implement said policy by joining with other companies who have executed this Agreement to form CHEMNET;

THEREFORE, in consideration of the mutual promises contained herein or contained in other CHEMNET agreements signed by other chemical companies and contained in the CHEMNET Operating Rules dated March 6, 1985, attached hereto and incorporated herein by reference, the undersigned company, intending to be legally bound, agrees to join in CHEMNET as a: (check one of the following)

\_\_\_\_\_  
PARTICIPANT as defined in the CHEMNET Operating Rules. The company shall designate to CMA those emergency responders that may be called on to respond to serious chemical distribution incidents.

\_\_\_\_\_  
SUBSCRIBER as defined in the CHEMNET operating rules. The company does not designate emergency responders, but will be obligated as a Subscriber and as a Shipper as those terms are defined and when they apply under the CHEMNET Operating Rules.

\_\_\_\_\_  
Company

by

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

The above-named signator is authorized to include, and hereby does include, the following subsidiaries in CHEMNET and agrees to guarantee the obligations of these subsidiaries under CHEMNET.

|       |       |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

Communications regarding CHEMNET should be sent to:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Street

\_\_\_\_\_  
City, State, ZIP Code

\_\_\_\_\_  
Telephone

CMA 044406

March 6, 1985

## CHEMNET OPERATING RULES

The following CHEMNET Operating Rules shall govern the operation of CMA's "CHEMNET" (the Chemical Network).

### I. Definitions

A. CHEMNET (the Chemical Network) means the network of Responders from Chemical Companies and For-Hire Companies, coordinated by CMA to provide emergency response to Serious Chemical Distribution Incidents (SCDI) in the United States.

B. CHEMNET Agreement is the agreement establishing CHEMNET that is attached hereto, which sets forth the policy of CHEMNET that has been approved by the CMA Board of Directors, and which will be executed by Signatories. The CHEMNET Agreement incorporates by reference these CHEMNET Operating Rules.

C. CHEMNET Contact is the person(s) and telephone number designated by each Signatory to be available for emergency calls from CMA 24 hours per day, every day of the year. Unless otherwise specified by a Signatory, its CHEMTREC contact shall also be deemed to be its CHEMNET Contact.

D. CHEMNET Management is the CMA staff person, together with his staff and agents, who shall manage and operate CHEMNET on behalf of CMA.

E. CHEMTREC means the Chemical Transportation Emergency Center operated by CMA.

F. Chemical(s), unless otherwise specified, shall include all chemical or petrochemical intermediates, products or waste.

G. Chemical Company is a legal entity that produces or processes chemicals.

H. CMA is the Chemical Manufacturers Association having its office in Washington, D.C.

I. For-Hire Company is a legal entity, other than a Chemical Company, that meets the criteria established by CMA for being available for response under CHEMNET and that and has agreed to be activated by the Shipper,

through CMA, for response to a SCDI in return for compensation from the Shipper.

J. Participant is a Chemical Company that executes the CHEMNET Agreement and agrees to make their Responders to CHEMNET.

K. Promptly (in the context of response) means being at the scene of a SCDI as soon as possible, considering the degree of seriousness of the incident, the exposure to the public, the proximity of the Responder(s) and the geographic, weather, travel and other conditions.

L. Responder means an individual, qualified pursuant to the qualifications set forth in Section IV(B), and designated by a Participant or employed by a For-Hire Company.

M. Serious Chemical Distribution Incident (SCDI) is a distribution incident involving a Chemical that requires the presence of Responder(s) from a Chemical Company or from a For-Hire company for the purpose of providing Technical Advice and Assistance because the incident (i) presents a significant possibility of causing injury to persons at or in the vicinity thereof; or (ii) presents a significant possibility of causing serious damage to the environment; or (iii) involves a Chemical which, if mishandled during first response, is capable of causing such injury or damage. For purposes of activating Responder(s), the Shipper shall determine whether a SCDI exists; if the Shipper cannot be contacted, CMA (with the advice of Responders, if deemed necessary by CMA) may determine whether a SCDI exists. For purposes of terminating the response by Responder(s), the Responder(s) at the scene will determine whether the SCDI has ended, subject to the authority of the Shipper to request the Responders to terminate their response.

N. Shipper is the Signatory whose name appears on the shipping paper as the shipper of record of the Chemical involved in an SCDI or potential SCDI except for shippers' associations, brokers, forwarders, NVOCCs, consolidators, and other intermediaries, in which case the Shipper is the Signatory whose name appears to CMA as the chemical producer. Unless otherwise specified, the term Shipper refers to both Participants and Subscribers.

O. Signatory is a Participant or a Subscriber.

P. Subscriber is a Chemical Company that does not make available Responders to CHEMNET, but that executes the CHEMNET Agreement as a Subscriber, and agrees to be bound as a Subscriber and as a Shipper as those terms are

defined and when they apply under these CHEMNET Operating Rules.

Q. Technical Advice and Assistance means advice and assistance (including hands-on assistance, if appropriate) which may be given by a Responder, and which may include identifying Chemicals and the hazards associated with the Chemicals involved in the SCDI, and determining measures, if any, to be taken, including communications, precautions, evacuation if necessary, and handling and containment of the Chemicals.

## II. Operation

### A. Activating CHEMNET

When the CHEMNET Contact of the Shipper is notified by CMA, by the transporter, by public authorities, or otherwise of a distribution incident involving its Chemical, and if the Shipper, in its judgement, determines that the incident is a SCDI,

(a) The Shipper shall attempt to send Promptly to the scene his own response personnel (assuming he has such personnel) or for-hire or other Chemical Company response personnel with whom he has individually contracted, or made an arrangement.

(b) If the Shipper knows or finds that he is unable to send response personnel Promptly, he should activate Responders through CMA. The Shipper may advise CMA as to which Responders should be activated.

### B. Activating Responders

When CMA is requested by the Shipper to request Responders to go to the scene, it shall:

(1) Determine which Participant can make available Responder(s) that can reach the scene of the SCDI Promptly; and

(2) call the CHEMNET Contact for such Participant and request its Responder(s) to go Promptly to the scene; and

(3) if sufficient Participant Responder(s) cannot Promptly respond, CMA, subject to authorization by the Shipper, shall request For-Hire Company Responder(s) to go Promptly to the scene.

C. Communications

When Responder(s) are activated:

(a) To the best of their ability, the Responder(s) shall contact the Shipper after establishing themselves at the scene of the incident, and maintain periodic communication with the Shipper.

(b) Until the Responder(s) are relieved by the Shipper or the SCDI ends, the Shipper shall be available for contact by the Responder(s) for the purpose of giving advice on the properties of the Chemical involved in the incident, and other advice and assistance the Responder(s) may require.

(c) Additionally, upon request of the Participant's Responder(s), the Shipper-Subscriber shall dispatch, when feasible, a representative from its company to provide assistance at the scene.

(d) The fact that Responder(s) have been activated for the Shipper shall not relieve the Shipper of any requirements to report the incident to governmental authorities, nor reduce the importance of the Shipper being available to communicate with such governmental authorities, the media, and the public.

D. Relieving the Participant's Responder(s)

The Shipper shall relieve the Participant's Responder(s) at the scene as soon as possible. In no event shall the Participant's Responder(s) be obligated by the Chemnet Agreement to remain longer than the first 24 hours from the time the Shipper became aware of the SCDI. If the Shipper cannot provide relief through his own company's emergency response teams (assuming he has such) within the first 24-hour period, he shall engage a for-hire emergency response team or make separate arrangements with the Participant's Responder(s) to have them stay at the scene beyond the 24-hour period. If the Shipper does not provide relief as required above, at the request of the Participant's Responder(s), CMA may request For-Hire Responder(s) to relieve the Participant's Responder(s).

E. When the Shipper Cannot Be Contacted

If CMA is unable to notify the Shipper of an incident within a reasonable time period:

(1) CMA should use its best efforts to activate Responders as set forth in Section II(B) above

(without the requirement of Shipper involvement), if it determines (with the advice of Responders, if deemed necessary by CMA) that the incident is a SCDI; and

(2) CMA will use its best efforts to continue to attempt to contact the Shipper; and

(3) once the Shipper is contacted, he shall relieve the Participant's Responder(s) at the scene as soon as possible, and no later than as set forth in section II(D) above; and

(4) the Shipper shall be obligated for Reimbursement and Payment under Section II(F), for all obligations under Section VI, and for all other obligations under the CHEMNET Agreement applicable to a Shipper as if the Shipper had authorized the activation of Responders.

F. Reimbursement and Payment

(1) Upon request by the Participant whose Responder(s) were activated to go to the scene of a SCDI, the Shipper shall reimburse the Participant for out-of-pocket expenses in connection with responding to the SCDI, including but not limited to:

(a) the cost of transportation, lodging, long distance calls, meals and overtime wages that were in fact incurred and paid;

(b) the replacement cost for tools and equipment that are expensed for tax purposes, and with respect to capital items, the original cost less depreciation and salvage value; and

(c) the costs of renting, cleaning and refurbishing equipment.

(2) The For-Hire Company whose Responder(s) were activated to go to the scene of a SCDI may request payment from the Shipper for its services rendered in connection with the SCDI only in accordance with a schedule of charges that have been submitted in advance to CMA. The Shipper shall make payment to the For-Hire Company for such charges.

(3) The CHEMNET Agreement shall in no way limit legal remedies the Shipper may have to seek reimbursement from any liable transporter, packer, warehouseman, etc. for the out-of-pocket expenses paid to the Participant and the charges paid to the For-Hire Company. Also, the CHEMNET Agreement shall in no way limit legal remedies the Participant or For-Hire

Company may have to seek payment from any liable transporter, packer, warehouseman, etc. for their respective out-of-pocket expenses or charges that are not paid for by the Shipper.

III. Other Limitations On the Obligations of Participant's Responder(s)

In addition to all other limitations set forth herein, the Participant and its Responder(s), for any reason in its sole discretion, may decline to respond, or limit its response, to any incident, and such declination shall not create liability or be deemed a breach of its obligations under the CHEMNET Agreement.

IV. Qualifications of Participants, Subscribers, and Responders

A. Qualifications of Participants and Subscribers

Any Chemical Company may become a Participant or a Subscriber in CHEMNET by executing the CHEMNET Agreement as a Participant or Subscriber and thereby agree to be bound by the terms applicable to Participants or Subscribers.

B. Qualifications of Responder(s)

Responder(s) should have adequate knowledge, which shall mean being capable, based on training and/or experience, to provide Technical Advice and Assistance for the particular Chemical or generic Chemical grouping that pose similar transportation hazards created by the Chemical that is involved in the SCDI. Any person who regularly performs emergency response functions for his Chemical Company may be presumed to have adequate knowledge qualifications with respect to those specific Chemicals for which he may respond for his company and all generic Chemical groupings that pose similar transportation hazards. Responder(s) also shall be adequately equipped to respond to the Chemical involved in the incident. CMA may establish, based on the preceding guidelines, professional qualifications for the Responder(s) that will be used in CHEMNET.

C. Designating Qualifications

Participants and For-Hire Companies shall designate to CMA: their Responder(s) that will be available to CHEMNET; the location of the Responder(s); the

geographic area in which the Responder(s) could Promptly respond; the Chemicals, the generic Chemical groups and transportation hazards for which each unit of Responders is not qualified; other general restrictions the Participant or For-Hire Company will place on the use of their Responder(s); or other general restrictions a Signatory will place on the response by others to the Signatory's SCDI. Qualification designations shall be made contemporaneously with, or shortly after, execution of the CHEMNET Agreement, and in the case of For-Hire Companies, upon execution of their agreement with CMA. Designations shall be updated as qualifications change.

V. Management

A. CMA

CMA shall be responsible for making all decisions regarding policy, management, and administration of CHEMNET and CMA's involvement therein. CMA shall employ adequate staff, known as CHEMNET Management, to manage CHEMNET.

B. CHEMNET Advisers

At least five representatives from CMA member companies shall serve as advisers to CHEMNET. Advisers may also be chosen from other affected industries such as the for-hire response industry, Chemical transporters, public first responders, and other governmental authorities. The selection of advisers, their term of service, and their organizational structure shall be recommended by CMA's Distribution Committee and approved by CMA. CMA's Distribution Committee shall serve as parent to the Chemnet advisers, whether such advisers are established as a new CMA working group or as part of an existing working group of the Distribution Committee. The CHEMNET advisers shall advise CHEMNET management, subject to Distribution Committee and CMA approval, on any matter relating to CHEMNET.

VI. Liability

Nothing in the CHEMNET Agreement or in the operation of CHEMNET shall be construed to impose liability upon CMA, a Participant, a Subscriber, or upon any of their personnel for failing to respond to the scene of a chemical distribution incident or for improperly responding to the scene, or for any other reason. Nor

shall the CHEMNET Agreement or the operation of CHEMNET be construed to shift any responsibility (which may otherwise be imposed by statute, governmental regulation, or common law upon a carrier, public warehouseman, or other person that provides distribution services) to prevent injury and damage arising from an occurrence or for liability arising from such injury or damage.

The Shipper whose Chemical is involved in the SCDI that has resulted in the activation of Responder(s) agrees to defend, hold harmless and indemnify CMA, the Participant, and their personnel for their actions or omissions under the CHEMNET Agreement and Operating Rules in connection with their involvement in coordinating response and responding to the SCDI involving the Shipper's chemical. Such obligation to hold harmless and indemnify shall extend to any and all liability and loss for personal injury, wrongful death or property damage sustained or incurred in connection with such SCDI, including the reasonable cost of defense of such actions. The provisions in this paragraph shall not be applicable in favor of CMA, the Participant, or their personnel if such liability arose by reason of their gross negligence or willful misconduct.

Each Signatory, by executing the CHEMNET Agreement, warrants that it has in place and will continue to keep in place, so long as it is a Signatory, insurance that would cover its obligations under this Section VI and that would provide an amount of coverage not less than ten million dollars (\$10,000,000).

#### VII. Effective date

The CHEMNET Agreement shall be effective upon the policy of CHEMNET being approved by the CMA Board of Directors. CHEMNET shall begin operations as soon thereafter as CMA shall determine that the necessary CMA Management, facilities, and Responders are available.

#### VIII. Modifications

CMA may modify, add to, or delete provisions of these Operating Rules. Such modifications, additions and deletions shall be subject to CMA Board Approval if they are inconsistent with the policies set forth in the CHEMNET Agreement. Notice of all material modifications, additions, and deletions, and an opportunity to withdraw from the CHEMNET Agreement shall be given to all Signatories to the CHEMNET Agreement.

#### IX. Withdrawal

Any Signatory may withdraw, with or without cause, from CHEMNET by giving 60 days' written notice of intent to withdraw. Such withdrawal shall not affect any obligation or liability of such Signatory arising under the CHEMNET Agreement or in the operation of CHEMNET prior to the date of withdrawal.

#### X. Termination

CMA may terminate, with or without cause, the participation or subscription of any Signatory by giving 60 days' notice of intent to terminate. CMA may terminate CHEMNET entirely, or any portion thereof, with or without cause, by giving notice thereof to all affected Signatories at any time. Termination shall not affect any obligation or liability of a Signatory arising under the CHEMNET Agreement or in the operation of CHEMNET prior to the date of termination.

February 19, 1985

DRAFT CURRICULUM  
FOR  
FIRST RESPONDER TRAINING PROGRAM

Introduction - Purpose of Training Film

Where hazardous materials are found  
Identifying chemicals and hazardous materials  
Approach techniques  
Securing scene  
Obtaining assistance  
Not intended to prepare you to handle a hazardous materials emergency  
Need for preplanning before incidents occur  
Enclosed brochure lists sources of additional training aids

Where Hazardous Materials are Found and Types of Materials You May Find in Any Community

Chemical plants, tank farms, rail, road, air, water, pipelines  
Gasoline stations, hardware, garden shops, body shops, dry cleaner, hospitals  
Construction sites, farms, homes, fire station, police station  
Possibly using a map with dots to illustrate chemicals are all over

T Hazard Classes

F.L., Corr., Pois, etc.  
Common materials that possess those hazards  
chlorine, gasoline, fertilizer, oxygen, etc.  
Some incidents involving some hazardous materials

Recognizing and Identifying Hazardous Materials

Fixed facilities  
Information from employees  
NFPA symbols (quick overview additional information in manual)  
Placards, labels, markings (where located more detail in manual)  
Include Dangerous placard and stress even if a truck or rail car is not placarded it doesn't mean that it doesn't contain hazardous materials  
Shipping papers - for various transportation modes - information they contain, where located - also check with truck driver or train crew  
Verify placard information with shipping papers  
Emergency Response Guidebook - go into detail on how to use  
Common types of containers (quick overview additional details in manual)

Approach Techniques

Use hi-power binoculars if possible  
Upwind - stay out of vapor clouds, smoke, etc.  
Ignition sources - common sources (demonstrate flashback)

## Approach Techniques (continued)

### Explosimeter

Keep apparatus safe distance from scene - flammables  
corrosives, poisons (problems) (some fire companies recommend  
not closer than 500 feet)

If you must enter area - protective clothing - turn out gear  
and positive pressure breathing apparatus, (minimum) tape  
at wrists, ankles (additional information in manual)

If you can't determine name of material other information  
that may assist

Name of carrier (trucking company, rail line) tank car  
numbers (where located) truck and trailer number

## Securing Scene

Isolation and evacuation - requires on-scene judgment

Environmental considerations (keep material from entering  
storm drains and water supplies)

Don'ts - put out fire, use of water (reactivity, vapor cloud)  
(may be safer to let burn)

## Obtaining Assistance

Plant personnel

Shipper via CHEMTREC

CHEMTREC - what it does and information you should try to  
obtain before calling

Mutual aid program

Restate - course not intended to train you to handle a hazardous  
material incident -- get help. Need for preplanning. Additional  
training resources listed in manual.

COMMUNITY RIGHT-TO-KNOW  
PROPOSED POSITION

Problem

The public is concerned that hazardous chemicals produced in or transported through their communities may have an adverse effect on their health and safety and the health of future generations. This concern is becoming more widespread and emotional.

The public perceives that information on hazardous chemicals is being hidden from them. This perception is precipitating the introduction of federal, state and local community right-to-know legislation.

Inconsistent requirements in community right-to-know legislation could be burdensome on industry while simultaneously creating confusion for the public.

Objectives

- Enhance the credibility of the chemical industry by voluntarily making hazardous chemical information available.
- Obviate the need for excessive legislation.
- In the event of legislation, ensure consistent requirements.
- Ensure that information is disseminated according to the needs of specific groups.
- Inform the public using the information already available under OSHA's hazard communication standard and other existing statutes rather than developing duplicative information tools.
- Maintain the trade secret protection available under OSHA's hazard communication standard.

Background

At the January 1985 meeting, the Board approved a package of interim guidelines on state hazard communication (right-to-know) programs. Those guidelines contained the following elements with respect to community right-to-know issues:

- o Industry, state, and local government leaders must work together in developing community right-to-know programs.
- o Legislation could include requirements for employers to provide lists of hazardous materials and material safety data sheet type information to appropriate state and local emergency service agencies.

- o State and local agencies that collect information on hazardous chemicals should develop mechanisms to allow public access to the information.
- o Trade secrets must be protected while at the same time providing necessary hazard and health care information to the public.
- o Information on potential health and environmental hazards posed by chemicals is available to the public through laws such as the "Toxic Substance Control Act" (TSCA), the "Resource Conservation and Recovery Act" (RCRA), the "Comprehensive Environmental Response Compensation Liability Act" (CERCLA), the "Clean Water Act" (CWA), and the "Clean Air Act" (CAA).

A more detailed position on community right-to-know has been developed and brought forward for Executive Committee approval because:

- There continues to be growing interest and momentum for legislation on this issue at the federal, state and local levels.
- Implementation of CMA's initiatives on Community Awareness and Emergency Response and the establishment of a National Chemical Response and Information Center is dependent upon a consistent position on the public's right to information on hazardous chemicals.

#### Recommendations

The following position on community right-to-know is proposed:

- o CMA member companies have a responsibility to provide information on hazardous chemicals to the public. This information should be tailored to the needs of specific groups (e.g., emergency responders, physicians, general public).
- o Information generally available under the hazard communication standard will be used to respond to public inquiries. The material safety data sheet or equivalent information is a practical means of responding to many requests.
- o In the event of any legislation, public access to information should be through a designated state agency. Chemical manufacturers, distributors and importers would provide the required hazardous chemical information to the designated state agency. All community right-to-know legislation should be consistent in its requirements so that the public's awareness of potential hazards will be enhanced.

#### Action Required

Approval of recommendations.

ANALYSIS OF FLORIO "BHOPAL" LEGISLATION

Attached is an analysis, which has been prepared by the legal department, of all of Rep. Florio's Bhopal legislation. The charts include analyses of the following:

- . H.R. 963 - amends the Occupational Safety and Health Act to allow state worker right-to-know laws to be "more stringent" than the OSHA hazard communication standard;
- . H.R. 965 - "The Chemical Manufacturing Safety Act" has several provisions including: a community right-to-know and emergency response bill; amendments to TSCA to add coverage of the manufacture of pesticides; amendments to RCRA to require that new regulations on underground storage tanks address releases into the air; a federal cause of action for people injured by accidents or abnormal releases of hazardous substances;
- . H.R. 966 - amends the Hazardous Materials Transportation Act to create federal regional training centers for local police and firefighters who deal with truck and train accidents involving hazardous chemicals;
- . H.R. 967 - amends the Clean Air Act to provide for automatic listing of 36 substances as hazardous air pollutants.

ANALYSIS OF FLORIO "BHOPAL" LEGISLATION

H.R. 963  
H.R. 965  
H.R. 966  
H.R. 967

IN COMPARISON TO, AS APPROPRIATE:

OSHA HAZARD COMMUNICATION STANDARD  
RCRA LUST REGULATIONS  
TSCA SECTION 3  
FEDERAL CAUSE OF ACTION  
HAZARDOUS MATERIALS TRANSPORTATION ACT  
ELECT AIR ACT  
CMA CURRENT POSITION  
CMA BHOPAL RESPONSE

PREPARED BY  
THE OFFICE OF GENERAL COUNSEL

FEBRUARY 25, 1985

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| • amendments to RCRA to require that new regulations on underground storage tanks address releases into the air                                                                                       | 15          |
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| Amends the Clean Air Act to provide for automatic listing of 36 substances as hazardous air pollutants                                                                                                | 19          |

EMPLOYERS COVERED

- Applies to any manufacturer, distributor, user, or importer of a covered substance who employs more than 10 employees or manufactures, distributes, uses or imports more than 1,000 kilograms of any covered hazardous substance in any calendar month (research labs and hospitals are not covered)
- Applies to chemical manufacturers and importers and employers in SIC Codes 20-39
- CMA supports the federal hazard communication standard
- CMA supports states enacting RTK legislation that covers all employers
- In regard to public access to information, CMA supports providing workplace lists of hazardous substances and MSDS information to appropriate state and local emergency services agencies. Those agencies can provide the information to the public. In addition, the public has access to information about health and environmental hazards under TSCA, RCRA, CAA, CERCLA. This information is available through the Freedom of Information Act.

SUBSTANCES COVERED

- "Hazardous Substance" means any substance:
  - regulated by OSHA;
  - listed in the Annual Report on Carcinogens by NTP;
  - for which there is a TLV established by ACGIH;
  - listed by NFPA in "Hazardous Chemical Data" NFPA 49;
  - identified in Occupational Health Guidelines for Chemical Hazards published by NIOSH;
  - listed by NFPA in 325M and
- Each chemical manufacturer or importer required to evaluate the hazards of the chemicals they produce or import; standard defines "physical" and "health" hazard and provides general criteria for hazard evaluations
- Any substance in 29 CFR 1910, Subpart Z; ACGIH's TLV's, any substance in NTP's Annual Report on Carcinogens; and IARC's monographs must be considered hazardous

rated II through IV as health hazards or rated III through VI as flammability or reactivity hazards;

- designated as a carcinogen by IARC or the Carcinogen Assessment Group of EPA;
- any pesticide classified for restricted use under FIFRA;
- listed in a review by NCI scientists published in the Journal of Toxicology and Environmental Health;
- designated by EPA;
- mixtures containing one percent (0.1 for carcinogens) or more of a hazardous substance

- Same treatment of mixtures

- The Agency for Toxic Substances and Disease Registry will compile a digest of all of the above covered substances and will update the digest annually.

- In addition, any substances treated by an individual employer as posing a threat to health or safety for purposes of internal health and safety rules or is identified by the employer as hazardous for purposes of complying with the OSH Act, must be treated as a covered substance.

- Exemptions: articles; mixtures which contain no more than one percent (0.1 percent for carcinogens) of a covered substance; consumer products;

- Translates into identical coverage (with the possible exception that some substances on Florio's designated lists will not be determined to be hazardous)

- Exemptions: hazardous wastes under RCRA; tobacco; wood products; articles and consumer goods. Labeling exemptions apply to pesticides regulated by

and food, drugs or cosmetics regulated by FDA.

FIFRA; any food, drug or cosmetic regulated by FDA; distilled spirits, etc., regulated by BATF; consumer products regulated by CPSC

#### NOTIFICATION REQUIREMENTS

##### Hazardous Substance Fact Sheets

- Fact sheets for each covered substance must be provided to local police, fire and health officials (the Governor of each state is to designate the appropriate local officials who will be the recipients of fact sheets);
- Fact sheets must contain the following information:
  - chemical, trade, common names and CAS number;
  - physical properties;
  - hazards to health and environment, including physical and potential acute and chronic health hazards;
  - if the substance is a carcinogen, mutagen, teratogen or neuro-toxin, the fact sheet must so state;
  - potential routes of human exposure;
  - symptoms of exposure;
  - appropriate emergency and first aid procedures;
  - emergency phone numbers
- Material safety data sheets (or their equivalent) must be provided to employees in SIC Codes 20-39 and to purchasers in SIC 20-39
  - CAS not required
  - Same
  - No requirement to address hazard to the environment
  - Possibility that there will be differences in what is considered a carcinogen, etc. under the two laws
  - Same
  - Same
  - Same
  - Same
- CMA supports making MSDSs available to local emergency response personnel
- CMA opposes any modifications to the MSDS requirements of the hazard communication standard
- NCIC Repository of MSDSs
- Community RTK: MSDSs and other documents created under the OSHA standard should be sent to a state agency. The state agency will act as a clearinghouse of this information by responding to public inquiries. The basis of the policy is that any information required to be given to employees should be available to the public -- but in the same format so as to avoid duplicative reporting requirements

H.R. 965

Florio Community R.T.K. Bill

OSHA Hazard Communication Standard

Current CMA Position

CMA Bhopal Response

- EPA is required to publish a uniform format
  - Format is not dictated by OSHA; MSDSs may be kept in any form
- Fact sheets must be updated within 6 months following the development of any new information and sent to previous recipients
  - MSDSs must be updated within 3 months

Hazardous Substance Status Sheets

- "Status" sheets for each covered substance must be provided to local police, fire and health officials (who will be designated by the Governor)
- Status sheets must contain the following information:
  - maximum inventory of each substance and its method of storage;
  - total amounts of emissions into the environment of each substance (broken down into a total for each: air, ground, water) and a statement of the method by which such quantities have been calculated;
  - quantity and method of disposal for any wastes containing the substance
- Status sheets must be revised on an annual basis
- EPA is required to publish a uniform format
- No requirements
- Information on chemical production, emissions into the environment and disposal is available to the public through many existing federal, state and local laws and regulations such as TSCA, RCRA and the Clean Air Act. Additional reporting requirements are duplicative and burdensome. Much of this information is available through industry cooperative emergency preparedness and planning programs with state and local emergency services agencies.
- Not addressed by CAER or NCIC (unless inquiries about such information are referred to members); see current CMA Position on Community RTK

CMA 044426

Hazardous Substance Emergency  
Bulletin

- "Hazardous substance emergency" means an accidental or abnormal release of a covered substance which may present an imminent and substantial endangerment to health or environment:
  - any release of a covered substance in an amount which requires notification of EPA under Superfund constitutes an imminent and substantial endangerment;
  - "accidental release" means a release which is not planned;
  - "abnormal release" means a release which is not a continuous release and which is in excess of the normal amounts associated with routine operations.
- An emergency bulletin must be provided to the State and local police, fire and health officials (as designated by the Governor) whenever there is a hazardous substance emergency.
- The emergency bulletin must include:
  - a description of the emergency;
  - chemical name or identity and CAS number;
  - amount released;
  - time and duration of the release;
  - actions taken to respond to the release.
- No requirements
- Cooperative programs exist between plant operations and state and local emergency services agencies
- CAER: emergency response programs would be established before an incident; these programs would contain a notification mechanism

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NOTIFICATION OF THE PUBLIC

- Fact sheets, status sheets and emergency bulletins must be available to the public at the covered employer's facility and at the local police, fire, or health departments;
- Fact sheets, status sheets and emergency bulletins must also be supplied to physicians and emergency medical personnel who need such information for diagnosing or treating an individual exposed to a covered substance
- Covered employers must publish a notice of availability of these documents in local newspapers and must announce where such documents are available; this notice must be published upon the initial publication of a fact sheet or status sheet and annually thereafter.
- No requirements
- CMA supports cooperation between chemical manufacturers and local fire, safety and emergency services agencies
- All available information regarding potential hazards associated with chemical manufacturing, processing and use should be available to emergency response personnel
- Local plant managers and emergency response personnel must establish regular communication forum to identify and evaluate local concerns, and to develop strategies for reducing emergency risks
- CMA supports cooperation with physicians by providing them with the information they need to diagnose or treat exposed employees. If trade secret information is requested, CMA supports the immediate response to such requests. Confidential-
- See CMA Bhopal Response -- Community RTK position on pg. 3
- NCIC -- referral service; connect public with manufacturer or seller

ality agreements may subsequently be negotiated.

#### AVAILABILITY OF FACT SHEETS TO USERS AND DISTRIBUTORS

- Manufacturers and importers must send fact sheets to distributors and users with the initial shipment of a covered substance and, the first shipment following any revision of a fact sheet previously transmitted.
- Manufacturers and importers must ship MSDSs to purchasers in SIC Codes 20-39; distributors required to insure shipments are accompanied by an MSDS
- Employers in SIC Codes 20-39 must make MSDS "readily accessible" to workers
- CMA supports the OSHA hazard communication requirements

#### RECORDKEEPING

- Covered employers must maintain permanent records of the information required by the act.
- Employee records must be retained for 30 years under the Access to Records Regulation

#### TRADE SECRET PROTECTION

- Name or identity and CAS number may be excluded from a fact or status sheet if:
  - name or identity is a trade secret and,
  - the generic category or class of chemicals to which the substance belongs is disclosed.
- The covered employer must be able to substantiate that information withheld as a trade secret:
  - is not known to anyone;
  - could not reasonably be discovered;
- Trade secret provisions considerably different; disclosure is required in some cases but sufficient safeguards are provided
- CMA supports the OSHA hazard communication provision and opposes any modifications to it

- would give any person receiving such information an unfair competitive advantage over the trade secret claimant

EXCEPTIONS:

- No trade secret claims may be made for information required on emergency bulletins or required to be given to physicians [when emergency bulletins are made available to the public, however, trade secret information may be deleted and public officials who have trade secret information may not disclose it to the public]
- No trade secret claim may be made on fact sheets, status sheets or emergency bulletins if the substance is a carcinogen, mutagen, teratogen, neurotoxin (as designated by EPA)
- Anyone may request the employer to substantiate a trade secret claim
- The Act specifies how that substantiation is to be accomplished

EMERGENCY RESPONSE

- Each covered major manufacturer <sup>\*/</sup> must develop an evacuation and emergency response plan (covering on-site and transportation emergencies) which must at least include:
  - designation of state or local officials who will be notified in an emergency;
  - names and emergency telephone numbers of appropriate personnel employed by the manufacturer who should be contacted;
  - description of measures that should be taken to mitigate and minimize the risks to health and the environment;
  - specification of an evacuation plan, including routes to be followed and traffic patterns to be altered and an evaluation of the adequacy of existing transportation for evacuation purposes;
  - specification of an emergency notification plan which should include: provisions for a warning system (including an alarm system) which is activated by a monitoring system; and a program for

\*No requirements

- Local emergency response cooperative efforts should include:
  - joint preincident emergency planning for the site, including regular site visits and drills;
  - joint preincident emergency planning for the community and drills to evaluate the plan;
  - industry providing access to and training in hazards information on materials which are present in quantity or are highly hazardous in storage or use;
  - emergency services and industry cooperation to assure that the roles and responsibilities in case of emergency are defined, command channels established and resources brought to bear promptly and effectively;
  - industry providing access to lists of available MSDS's, communicating the availability of the lists and providing MSDS's to appropriate agencies upon request
  - identification of available specialized equipment, such

CAER: This initiative is designed to assist local plant managers to achieve the goals set out in Florio's bill under CAER. Pre-planning would be voluntary and would involve broader segments of the community in emergency response planning. CAER is also designed to assist plant managers in evaluating the risks associated with their own plants and planning how to respond to emergencies.

With respect to transportation, NCRIC will provide a communication link that will assist emergency response, but emergency response plans in non-plant communities are not the focus part of CHA's program and product flow notification by the chemical industry is not a contemplated NCRIC or CAER activity.

<sup>\*/</sup>"Major manufacturer" is to be defined by regulation. If the regulation is not promulgated within 12 months, then all covered employers will be considered "major manufacturers" until the regulation is promulgated.

- educating the public concerning the plan;
- an evaluation of medical, police, firefighting resources available and recommendations for additional resources that should be developed by governments
- Governor of each State to designate emergency response districts and emergency response committees for each district. The committee will consist of representatives of the police, firefighters, health depts., fire and rescue squads, hospitals, local government, community groups, and manufacturers
  - Manufacturers must submit their emergency response plans to the ER Committee; the Committee may revise such plans and may develop a comprehensive plan for the district

- as foam, personal protective equipment, suppression and or detection equipment, etc., use and make it available for use in an emergency; and
- Provisions for industry personnel to serve as technical advisors to the emergency services agencies in emergencies both on-site and in the community
  - With respect to transportation, CMA opposes shipment-by-shipment pre-notification of hazardous material movements. Specific emergency response plans and notification of product types (even on an annual basis) would be very difficult to implement.

LABELING

- EPA is required to promulgate uniform national mandatory labeling requirements for pipes, storage tanks, and containers for which no label (indicating the method of responding to a release) is currently required by law
- Containers must be labeled with the identity of hazardous chemicals; appropriate hazard warnings; and the name and address of the manufacturer or importer (if it is a shipping container)
- Pipes are excluded from the definition of workplace container
- Not required
- CMA supports the OSHA hazard communication standard's labeling requirements. They are performance-oriented and do not require detailed information which would decrease the effectiveness of the warning
- The type of information Florio proposes to be put on the label is not appropriate for labels. This information is included on MSDSs which are to be available in every workplace under the OSHA standard. This information is reinforced through training, for example
- The labels are to indicate the appropriate method of responding to a release (may include color coding or symbols)
- An emergency bulletin must be provided to the State and local police, fire and health officials (as designated by the Governor) whenever there is a hazardous substance emergency
- The emergency bulletins must include:
  - a description of the emergency;
  - chemical name or identity and CAS number;
  - amount released;
  - time and duration of the release;
  - actions taken to respond to the release

ENFORCEMENT

- Local officials notify the U.S. Attorney General of violations of the Act
- Citations and civil penalties
- Civil penalties: \$20,000. for each violation (each day a violation continues constitutes a separate violation)
- Criminal penalties: anyone who knowingly or willfully violates the notification and emergency response provisions is subject to, upon conviction, imprisonment of not more than three years or a fine or both

PREEMPTION

- States may adopt more stringent workplace information requirements ("more stringent" means more information than is required by the Act, or a requirement that is more protective of health and the environment)
- Preempts state laws that regulate hazard communication in manufacturing workplaces (Section 18 of OSH Act; 29 CFR 1910.1200(a)(2))
- Section 18 OSHA standards preempt state laws governing the same "issue" (hazard communication in the manufacturing sector in this case)
- Employers must comply with the federal requirements and the more stringent state requirements, unless it is physically impossible. In that case, compliance with the federal standard is not necessary
- The OSHA standard preempts state right-to-know laws that regulate hazard communication in the manufacturing sector; if states want different requirements, they must go through the state plan approval process

- This Act does not preempt any state emergency response law which is more protective of health and the environment than the federal law

FEES

- State and local governments may impose fees to cover the costs of implementation of this law

- No emergency response requirements

- CMA opposes state and local laws governing hazardous materials transportation that are inconsistent with federal requirements.

- As a general matter, CMA opposes fees that are unfairly placed on the chemical industry only or primarily.

- CMA opposes state and local fees on industry to cover cost of state and local emergency response for transportation skills because the lack of controls, consistency, and uniformity of fees will restrain commerce.

- NCRIC and CAER are industry paid-for initiatives that will reduce the need for separately funded federal, state, and local programs.

- Amends the definition of "pesticides" excluded from regulation under TSCA. Current definition provides that pesticides are excluded when manufactured, processed, or distributed "for use as a pesticide." The amendment would exclude from TSCA only substances "distributed in commerce for use as a pesticide." Thus, all manufacturing and processing of pesticides would come under TSCA regulation.

The Environmental Protection Agency has consistently asserted its jurisdiction under TSCA to regulate intermediates, catalysts, and other chemicals used in the manufacture of pesticides but not contained in the pesticide. Thus, the manufacture and processing of MIC, which is used to make a pesticide, is already potentially subject to regulation under TSCA. H.R. 965 would expand TSCA's jurisdiction somewhat beyond what EPA has already asserted, but it would basically serve to reinforce and codify TSCA's control over manufacturing and processing of chemicals used to make pesticides.

No objection.

## Florida RCRA Amendments

## Current CMA Position

## CMA Bhopal Response

- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                    |                                                                                                 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"><li>• Amends Section 9001(5) to include releases into air within the jurisdiction of EPA under the provision. (The current version covers releases into the soil, groundwater and surface water). andards) for</li><li>• Shortens the deadline regulations (EPA to develop new performance standards) for underground tanks storing CERCLA hazardous substances (but not RCRA hazardous wastes) from 32 months to 18 months</li><li>• Shortens the deadline for EPA to develop regulations (existing tank standards on leak detection, financial assurance, recordkeeping, etc.) for underground tanks storing CERCLA hazardous substances (but not RCRA hazardous wastes) from 48 to 24 months.</li></ul> | <p>No official position; should probably not oppose.</p> <p>No official position; should probably oppose.</p> <p>No official position; should probably oppose.</p> | <p>Engineering Advisory Committee to review issue and develop a position on tank standards.</p> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|

LIABILITY FOR ACCIDENTAL  
AND ABNORMAL RELEASES \*/

- Establishes a federal cause of action for accidental and abnormal releases
- Is a non-exclusive remedy
- Liability would be strict, joint and several, with defenses only for an act of God or an act of war
- Compensable damages include medical expenses, rehabilitation costs, burial expenses, pain and suffering and loss of income or profits which result from personal injury, illness or death; also includes coverage of economic loss and damage to property
- Any information is admissible which tends to establish that exposure to a hazardous substance causes or contributes to the type of damages allegedly suffered by the claimant, including any increase in the incidence of death, animal studies, tissue culture studies, micro-organism culture studies and laboratory and toxicologic studies
- Adopts date of discovery rule as statute of limitations
- Oppose a federal cause of action. Congress should not create a new, duplicative federal tort law, as the existing state tort law system appears to be providing adequate compensation. Moreover, the proposed language constitutes an extreme departure from the normal state tort law rules, imposing virtually absolute joint and several liability on a retroactive basis

\*/ Amendment to TSCA.

- Allows more stringent state worker right-to-know laws. "More stringent" means more information or information that is more effective in providing safe and healthful employment
- Employers must comply with state and federal requirements, unless physically impossible. In that case, compliance with the OSHA standard is not required
- This applies equally to non-plan and state-plan states
- Section 18 standards preempt state laws dealing with the same issues; sets a "ceiling" for regulations (Florio's proposal would make OSHA standards a "floor")
- Supports Section 18 as presently written; need for uniform, nationwide workplace requirements

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\*Amends Section 18 of the Occupational Safety and Health Act

PROPOSAL

- DOT, in cooperation with states and localities, shall establish regional training centers to train state and local personnel (1) to respond to transportation accidents, and (2) to enforce regulations governing hazardous materials transportation.

FUNDING

- States and localities pay 60% of costs in first year and 75% of costs thereafter. Federal gov't pays the rest. The bill does not specify where the funds will come from (e.g., will a user fee on industry or CERCLA funds be used?). Training for industry personnel must be paid for totally by industry.

- CMA supports response training for state and local personnel through regional training centers and otherwise, but since CMA does not support state and local restrictions on hazardous materials transportation, we would not support enforcement training.

- CMA opposes user fee or CERCLA funding to pay for state and local training. CMA prefers funding from general revenues, and if such is not available, a voluntary industry initiative for the first responder training portion of the effort. A user fee that is broadly paid for by many industries and that is limited in duration and amount might be an acceptable third-best alternative.

- CMA proposes to provide first responder training (i.e., precautionary not hands-on) tapes and manuals for all public response personnel. This NCRIC effort will likely cost \$100,000. in FY85-86. Although CMA provides workshops for hands-on responders (as distinguished from first responders) these workshops are not designed or priced to train public personnel that need to be hands-on experts.

LISTING OF SUBSTANCES  
AS HAZARDOUS AIR POLLUTANTSDecision Deadlines

- Decisions must be made on 26 substances (including the 22 substances identified by Administrator Huckelshaus in testimony of November 7, 1983) by January 1, 1986, and on an additional 10 substances (selected from the list of 37 substances that EPA identified as being under assessment in June 1981) by January 1, 1987. The Administrator can substitute for the latter 10 substances, others which he deems to be of higher priority.
- On or before January 31, 1987, EPA must commence listing determination proceedings for each substance that has appeared on the NTP Annual Report on Carcinogens, is an air pollutant, and has not previously been the subject of a listing determination. Decisions on each of these substances would have to be made within one year of the date on which the proceeding commences, and the requirement for one-year listing determinations would be repeated annually as new air pollutants are added to the NTP list.
- No requirement that EPA must make listing decisions on any specified number of substances within a certain time period.
- No CMA position on whether EPA should be required to adhere to a statutory timetable for making listing decisions. However, CMA has stated that such a timetable should not be enforced by "automatic listing." See also the following item.

<sup>\*</sup>/ Amends Section 112 and 122 of the Clean Air Act.

H.R. 967  
 Florio Hazardous  
 Air Pollutant Bill

Clean Air Act

Current CMA Position

CMA Bhopal Response

Automatic Listing if Decision  
 Deadlines are Not Met

- Yes, for the 36 substances on which decisions are to be made by January 1, 1986, or January 1, 1987.
- In addition, a citizen suit under Section 304 of the Act could be brought to force the Administrator to make a listing determination for any of the 36 priority substances on which the statutory deadline had expired.
- Moreover, if a reviewing court remands for further proceedings an EPA determination that one of the 36 priority substances is not a hazardous air pollutant, the substance would be treated as listed under Section 112 until the Administrator completes such further proceedings.
- Substances from the NTP list on which the statutory decision deadlines have passed would not be automatically listed. Nor does H.R. 967 specifically provide for a Section 304 citizen suit to force listing decisions on substances from the NTP list, although such an action might lie under Section 304 as it is presently written.

- No deadlines, so no automatic listing.

- CMA opposes automatic listing. Automatic listing would require EPA to impose stringent, costly controls on emissions of numerous substances without scientific evidence that these substances pose any significant health risk. Automatic listing would also distort EPA's regulatory priorities.

STANDARD-SETTING

Sources For Which Standards Must  
Be Set

- Standards are to be set for each stationary source category which emits the listed pollutant (apparently without regard to whether the pollutant is emitted in significant amounts).
- Section 112 says only that EPA must set "an emission standard" for a pollutant. EPA's reading of that provision is that EPA is required to set a standard for a stationary source category only if a standard is necessary to protect the public health with an ample margin of safety.
- EPA should regulate only those stationary source categories which may reasonably be anticipated to result in an increase in serious illness.

Timetable for Proposal  
and Promulgation

- Proposed standards (including interim standards where necessary) must be published within one year after a pollutant is listed under Section 112, and final standards must be published one year after proposal.
- Proposed standards are to be published within 180 days after a pollutant is listed under Section 112. Within 180 days after proposal, EPA must issue final standards, unless it finds that the substance is clearly not a hazardous air pollutant.
- No CMA position.

Standard-Setting Criteria

- Emission standards shall be established at a level which provides an ample margin of safety to protect public health.
- However, if such a level is not technologically achievable, a less stringent interim standard may be established for a period
- Emission standards shall be established at a level which provides an ample margin of safety to protect the public health. EPA interprets this provision as authorizing EPA to set standards using a test of "Best Available Technology (BAT) plus control of unreasonable residual risk." Under
- EPA should require use of the best available, adequately demonstrated technology, along with more stringent controls where necessary to eliminate any unreasonable residual risks.
- In setting these standards, EPA should be allowed to consider such factors as:

Clean Air Act

Current CMA Position

CMA Bhopal Response

not to exceed six years. The interim standard must reflect a level of control at least as stringent as the level achievable through the use of all technologically feasible emission reduction measures.

- At a minimum, any emission standard (including an interim standard) shall require the most stringent level of control that is (A) achieved in practice by any source in the category concerned (or in a category having similar air pollution control characteristics) or (B) required in any permit applicable to any such source.

this test, EPA requires at a minimum best available technology, considering economic, energy and environmental impacts, and (for existing sources) technological problems associated with retrofitting. In addition to BAT, EPA requires whatever other controls are needed to eliminate any unreasonable risk remaining after application of BAT.

- the seriousness of any public health risk posed by a particular pollutant,
- the potential for reducing that risk,
- the cost-effectiveness of alternative control technologies, and
- similar factors relevant to the regulatory process.

- CMA opposes the standard-setting provisions of H.R. 967. Those provisions are unduly rigid and narrowly focused. The problems with these provisions include:
  - retention, without clarification of the "ample margin of safety" test. This test, if interpreted to require "zero risk," would be unworkable for non-threshold pollutants.
  - a minimum requirement of controls at the forefront of technology regardless of the need for such controls or the economic and other impacts of imposing the controls.
  - after an interim period, imposition of standards even if they are not technologically feasible, creating the possibility of widespread plant noncompliance or shutdowns.

Different Standards for New and  
Existing Sources Permitted or  
Required

- No. However, different permitting requirements may apply, as described below. See also the following item.
- Section 112 does not explicitly authorize or require different standards for new and existing sources. However, EPA interprets the provision as authorizing different standards for new and existing sources. Also, different compliance schedules apply to new and existing sources, as described below. See also the following item.
- No explicit CMA position. However, it would seem that EPA could set different standards for new and existing sources if the standard-setting criteria recommended above yield different results for these two types of sources.

Different Standards for Various  
Types and Sizes of Sources  
Permitted or Required

- The Administrator may distinguish among classes, types, and sizes within categories of sources.
- Section 112 does not explicitly permit or require different standards for various types and sizes of sources. However, EPA reads the provision as authorizing it to set different standards for various types and sizes of sources in a category.
- No explicit CMA position. However, as in the item above, it would seem different standards could be set if the various types and sizes of sources yield different results under the recommended standard-setting criteria.

Emission Limitations Applicable  
Between the Listing of a Substance  
and the Setting of a Standard

- Yes, in the case of new and modified sources. See discussion of Permitting Requirements below.
- No.
- CMA opposes applying emission limitations to sources before applicable standards are set. Such limitations are premature, may not be based on adequate data, and subject sources to

instability in compliance  
planning.

PERMITTING REQUIREMENTS

Permits for New and  
Modified Sources

- After a pollutant has been listed, no person may commence construction of a new stationary source or commence modification of an existing stationary source (if such modification will increase emission of the listed pollutant) unless the person has obtained a permit.
- The permit shall require compliance with an emission limitation which provides an ample margin of safety to protect public health. However, if such a level is not technologically achievable by the source, a less stringent interim emission limitation may be established for a period not to exceed six years. The interim emission limitation must reflect a level of control at least as stringent as the level of emission reduction achievable through the use of all technologically feasible emission reduction measures.
- No permit requirement for new or modified sources. However, once a final standard is issued for a pollutant, no person may construct a new stationary source or modify an existing stationary source (if such modification will increase emission of the listed pollutant) unless EPA has found that the source, if properly operated, will not cause emissions in violation of the standard.
- CMA opposes the permitting requirements of H.R. 967. These procedures are cumbersome and would substantially and unnecessarily complicate enforcement of the statute.

- At a minimum, any emission limitation (including an interim emission limitation) in a permit for a new or modified source shall require the most stringent level of control that is (A) achieved in practice by any source in the category concerned (or in a category having similar air pollution control characteristics) or (B) required in any other permit applicable to any such source.
- No emission limitation (or interim emission limitation) in a permit may be less stringent than the limitation contained in a comparable emission standard (or interim emission standard) applicable to sources in the category concerned.

Permits for Existing Sources

- One year after the date of promulgation of an applicable emission standard, no person may operate an existing source which emits the pollutant covered by the standard and which commenced construction or modification on or before the date on which the pollutant was listed under Section 112, unless a permit to operate the source has been obtained. (In the case of standards that were promulgated before H.R. 967 is enacted the permit must be obtained within one year after
- No permit requirement for existing sources. Once a final standard is issued for a pollutant, an existing source has ninety days to comply with the standard. After that date, the source may not operate in violation of the standard.
- Same position as on the provisions of H.R. 967 governing permitting of new and modified sources.

enactment.) The requirements in permits for existing sources parallel the requirements applicable to permits for new and modified sources -- although emission limitations that may be technologically feasible for a new or modified source may not be technologically feasible for an existing source.

Compliance Extensions for Existing Sources

- The Administrator may grant a waiver of up to two years from the permit requirement applicable to existing sources, if he finds that such a period is necessary for the installation of controls and that steps will be taken during the period of waiver to assure that the health of persons will be protected from imminent endangerment.
- A waiver for an additional three years is possible upon application to the Governor of the State in which the source is located. On the basis of such an application, and after affording an opportunity for a public hearing and making a variety of specified findings, the Governor may petition the President to grant the extension that is sought. The President may grant the exten-

• Same.

• No.

• No CMA position.

• No CMA position.

sion only if he concurs in all of the Governor's findings. The procedure is very cumbersome and requires the posting of a bond equal to the cost of actual compliance, which would be forfeited if the source fails to comply at the end of the waiver extension.

National Security Waivers

• No.

• The President may exempt a source (new, modified or existing) from compliance with a Section 112 standard, for a period of two years, if he determines that the technology to implement the standard is not available and operation of the source is required for reasons of national security. The President may extend such an exemption for additional two-year periods, if he makes the appropriate finding for each extension. The President must report to Congress with respect to each exemption or extension made.

• No CMA position.

General Permit Provisions

• A permit would be valid for up to three years and could be renewed for an additional three years, at the end of which the owner or operator would have to apply for a new permit.

• No.

• The short permit terms in H.R. 967 would create great uncertainty in planning installation of controls.

Clean Air Act

Current CMA Position

CMA Bhopal Response

- A permit arguably would have to be revoked if any requirement of the permit were violated.
- An opportunity for hearing must be provided in connection with the issuance of a permit (but apparently not renewal) except for classes of sources which emit the pollutant in small amounts and which contain numerous sources within the class -- in which case permits could be issued by rule.
- Actions of the Administrator in approving, disapproving or revoking a permit would be subject to judicial review.
- Fees would be assessed to cover the cost of administering and enforcing the permit system.

Monitoring Requirements

- Yes. Permits shall include requirements for emissions monitoring (to ensure that the source is in compliance with the permit) and ambient air monitoring in the affected community. The results of emission and ambient monitoring shall be reported to the permitting agency. The testing data must be retained and made available to the agency or the public on request.

- No.
- No hearing specifically provided for on an application for EPA approval of construction or modification (see Permits for New and Modified Sources above). However, current regulations require EPA, before denying an application, to give an applicant an opportunity to present additional information or arguments.
- EPA action denying or granting an application for approval of construction or modification would be subject to judicial review.
- No.
- No.

- The permit revocation provision of H.R. 967 could require sources to be shut down for minor or technical violations.

- CMA opposes the ambient monitoring requirements of H.R. 967. Those requirements are too broad and of questionable value to the regulatory process, as well as being both difficult and expensive.
- No CMA position on the emissions monitoring requirements of H.R. 967.

MISCELLANEOUS

New Source Definition

- For purposes of permitting requirements, a new or modified source is one which commences construction or modification after a pollutant has been listed under Section 112. An existing source is one which commenced construction or modification on or before the date on which the air pollutant was listed.
- For purposes of compliance with standards, a new or modified source is one which commences construction or modification after proposal of a Section 112 standard. An existing source is one which commenced construction or modification on or before the date of proposal of the Section 112 standard.
- No CMA position.

Definition of  
Hazardous Air Pollutant

- A "hazardous air pollutant" is a pollutant which, in the judgment of the Administrator, causes or contributes to air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.
  - When a pollutant otherwise fits the definition of "hazardous air pollutant," it would have to be listed without regard to whether the Administrator intends to establish an emission standard for the pollutant under Section 112.
- Same as H.R. 967, except:
- Section 112's definition of "hazardous air pollutant" excludes any pollutant to which an ambient air quality standard is applicable, and
  - EPA is required to list a hazardous air pollutant only if it intends to establish a Section 112 emission standard for the pollutant. The meaning of this provision is not clear.
  - No CMA position.

H.R. 967  
Florida Hazardous  
Air Pollutant Bill

Clean Air Act

Current CMA Position

CMA Bhopal Response

Regulation of Hazardous Air  
Pollutants From Motor Vehicles

• Yes.

• No.

• No CMA position.

CMA 044452

## FIRST RESPONDER TRAINING WORK PLAN

Status ReportObjectives

To develop and distribute training materials designed to assist the first responder in dealing with hazardous materials incidents. The target audience for these materials will be the rank and file firefighters and police (including volunteers). The objective of the training would be to reduce injury and environmental damage and provide methods to obtain assistance for these personnel.

Background

There are a number of agencies, companies and associations that now offer first responder training materials but but they are either very narrowly structured (e.g. rail incidents only) or narrowly distributed. As a result, many firefighters and policemen do not have the appropriate precautionary information when dealing with a hazardous materials incident. FEMA, DOT and EPA do not have, nor do they have any short range plans to address this need.

Plan of Action

The Distribution Committee is developing a program which would:

- o Establish a lending library of training materials developed by CMA and others.
- o Develop and distribute a training course (video plus manual) that will cover precautionary identification, and methods of obtaining assistance.
- o Continue to work with Federal agencies and other associations toward a unified training curriculum and delivery mechanism.
- o Investigate the use of satellite delivery of the CMA developed training materials. A one time delivery through the NFPA satellite network to 14,000 (+) sites is envisioned.
- o Investigate the production of computer discs for computer aided instruction of the basic curriculum.
- o Develop additional modules of the CMA training program on the subjects of containment and contingency planning.

### Implementation

When the work plan is final and approved, the Distribution Committee will assume the lead in implementation. The lending library will be established this fiscal year, development and initial distribution of the video/manual training package is scheduled for October 1985. The satellite delivery of the training materials will be accomplished as soon as video training material is completed.

### Cost

Projected costs for elements of the proposed program are:

- 1) Lending library of training materials -\$5,000.
- 2) Video training course and manuals -\$65,000.
- 3) Satellite delivery of training program - \$25,000.
- 4) Production of computer disc - \$10,000.
- 5) Additional modules of the video training course are \$65,000 per module. Two additional modules are now contemplated.

Of these items only items 2,3,and 4 are projected for FY 85/86.

### Current Status

The Distribution Committee, Safety Task Group is currently completing the details of this work plan. The curriculum of the video training manual has been drafted. Materials for the lending library have been reviewed and several selected for inclusion in the library. Written estimates of cost for the video , satellite delivery and computer disc will be received in the next 2-3 weeks.

### Action Required

None, for information only. The Distribution Committee will bring forward its final work plan to the Executive Committee in the near future.

CMA  
EC-3/6/85

CMA 044454

PROPOSED PROGRAM ON CUMENE

Problem/Background:

The Interagency Testing Committee (ITC) placed cumene on the 15th list of chemicals for priority testing. Manufacturers of cumene requested that CMA set up a program for this chemical. Accordingly, the Special Programs Division convened an exploratory meeting where a budget to cover program initiation was approved.

Objectives:

The Program panel will work with EPA to assure that the Agency has all the data needed to make an informed decision regarding the need for health and environmental effects testing of cumene.

Recommendation:

It is proposed that the Executive Committee approve establishment of this program.

Impact:

Money

- Participating companies will support program activities and necessary overhead.

Company Personnel

- One representative from each participating company.

CMA Personnel

- No additional staff required.

Action Required:

Approval of recommendation.

CMA  
EC-3/6/85

CMA 044455

## CUMENE PROGRAM

### Charter

The Program Panel will be concerned with the generation, collection and evaluation of information necessary to assess the environmental and health effects arising out of the production, storage, transportation, use and disposal of cumene.

The Panel will adopt and convey advocacy positions, as appropriate, emanating from regulatory agency activities on cumene.

The Panel will be responsible for certain administrative matters, including the election of officers, voting procedures, basis for cost sharing among participating companies, designation of appropriate task and/or work groups, and liaison with other trade associations and interested non-participating parties.

The Panel will function as a special committee under CMA's bylaws, and its operation will be subject to the Special Programs Guidelines.

CMA  
EC-3/6/85

CMA 044456

CUMENE

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# REPORT OF THE PRESIDENT

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## ASSOCIATION PROGRAM AND ISSUE REPORT

### I. ADVOCACY OVERVIEW

#### A. Congress

The Republican controlled Senate is having difficulty getting organized. It is running behind its normal schedule and is unable to do business until remaining problems are settled. A tentative agreement has been made on the size of the committees. However, negotiations are still going on for the seats on a number of the committees. Committee assignments that are very important to CMA are as yet undecided.

The House is further along with its organization. All full committee assignments have been made. The subcommittee structures are not all formed yet, but most subcommittee chairmen have been appointed. There are no major changes in the House structure, not already foreseen, that would impact CMA. The Republicans are not happy about subcommittee ratios, the usual irritation arising from control by the other party.

Many bills have been dropped in the hopper that will affect the chemical industry. These are being sorted out by relative importance and priority. Member companies will be informed of them. The delayed organization of the Congress and the expected long-term battle over the budget will delay development of legislation from the hearings stage through mark-up.

#### B. Federal Regulatory Agencies

Department of Energy. President Reagan's endorsement of natural gas deregulation, in his state of the Union Address, could make it the major DOE initiative this year or next.

U.S. Environmental Protection Agency (EPA). Lee Thomas was confirmed by the Senate to replace Ruckelshaus as head of EPA, and can be expected to pursue the same three major programs he has advocated -- Superfund, at 1 Billion a year; RCRA Implementation; and an Effective National Groundwater Strategy.

Occupational Safety and Health Administration (OSHA). OSHA staff now indicate that the Agency will move on major programs only after Rowland is confirmed as head of the Agency. Publication of a Benzene standard will supposedly follow Rowland's confirmation almost immediately.

#### C. International

Mr. Leo Johnstone, Trade Advisor of the Office of the Chemical Industry Trade Advisor, resigned that post in January. OCITA is an eleven year old trade policy coalition of CMA, SOCMA, SPI and NACA. Mr. Dexter

Baker, President, Air Products and Chemicals, Inc., has been named as the new Trade Advisor. Myron Foveaux will continue as Deputy Trade Advisor.

Preparations are underway for a trade policy meeting in Washington on March 12, 1985, with CEFIC, the EEC umbrella chemical association. Representatives from five member companies will be in the visiting group.

The Bhopal incident and resultant criticism of exports of hazardous chemicals from the United States has triggered approval of a CMA policy on the issue. The board in its January meeting approved a long delayed Administration policy on such imports. If the Administration draft policy is found to be essentially as last known, the CMA will recommend it be issued.

#### D. States

A number of governors in their annual State of the State message have stressed the environment as a legislative priority for 1985. Potential legislative or policy changes may include enactment of worker and community right-to-know legislation, bond programs to assist toxic waste cleanup efforts, statewide drinking water protection programs, new regulations on chemicals that could pollute groundwater and additional funds to evaluate the number, type and quantity of toxic air discharges. While environmental improvements were identified as important issues for 1985, education and budget issues still remain the leading concern of many governors and state officials.

#### E. Media

Media interest continues strong on Bhopal and what industry's reaction to it will be. The national newsmagazines have featured weekly coverage while the New York Times continues its focus on the issue. Chemical & Engineering News has devoted its entire current issue to Bhopal.

The Times, The Washington Post, the Environment Reporter see the primary question to be one of right-to-know, both for employees and the community.

As this is written a press conference to explain the industry's two initiatives, CAER and the National Chemical Response and Information Center, has been set for February 28. Wide interest is expected.

Various "public interest" groups have begun an almost coordinated blitz of media activities in preparation for the introduction of environmental legislation in the 99th Congress.

Nader's Public Citizen conducted a media campaign to raise the issue of employee right-to-know over NIOSH's decision not to inform workers of exposure to carcinogens. The National Coalition Against Toxic Waste launched a much better organized version of its 1984 campaign. Community

right-to-know has been added to waste site cleanup as their issue. They intend to dump one million signatures on Congress.

#### Legal Affairs

Congressman Henry Waxman (D-CA) mailed a questionnaire concerning gas leaks from chemical plants to many CMA members. The Office of General Counsel assisted CMA members in preparing their own individual responses to the questionnaire by meeting with member representatives to discuss the legislative and legal status of the questionnaire, the various follow-up inquiries the Congressman could initiate, and the protections which might be available for confidential information.

## II. ISSUES AND PROGRAM STATUS

### Superfund (CERCLA and Old Waste Site Cleanup)

#### 1. Congressional Developments and Response

Senator Robert Stafford (R-VT), January 3, 1985, introduced the Superfund Improvements Act of 1985. This proposal (S. 51) closely tracks the legislation approved by the Environment and Public Works Committee on September 13, 1984. Stafford has put Superfund on the "fast track" by announcing a hearing for February 25 with EPA to be the only witness. Stafford plans for the Committee to begin consideration of S. 51 on February 26, 28 and March 1.

The Stafford bills' major provisions include:

- o raising \$7.5 billion over 5 years, \$6.4 billion from higher taxes on petroleum and feedstocks, and tax on 17 new substances, a tax on the release of hazardous waste and a corporate tax on net receipts;
- o establishment of a federal cause of action;
- o reserving a section titled "Victim Assistance Program" with details to be offered later;
- o providing for community relocation;
- o further defining how clean is clean.

Also, Senators Bentsen and Moynihan have introduced (S. 14) a waste end tax proposal. In the Senate Finance Committee, Senator Bill Bradley (D-NJ) is drafting a taxing proposal which he plans to introduce soon.

Senator Frank Lautenberg (D-NJ) will hold a field hearing for the Environment Committee in Linden, NJ on February 18. The hearing is being

called to look at emergency response preparedness generally and response to prevent a Bhopal type incident in this country. Lautenberg may offer emergency response amendments to the superfund legislation.

The Senate Environment and Public Works Committee held Mr. Lee Thomas' confirmation hearing for EPA Administrator on February 6. Mr. Thomas was easily confirmed February 6 by the Committee (16-0) and the Senate on February 7 by voice vote. On Superfund, Mr. Thomas said EPA would support funding of \$1.1 billion per year for a \$5.5 billion fund over 5 years. He said no general revenue would be included, so the \$1.1 billion would come from a tax on feedstock and waste end. Any recovery money would be added on the \$1.1 billion on a yearly basis. The administration Superfund proposals should be sent to the Hill soon.

House Activity. No Superfund legislation has been introduced in the House. Representative James Florio (D-NJ) wants to see the administration Superfund proposal before he introduces his own.

CMA Activity. The Government Relations Committee Superfund Task Group will hold a briefing for member company Washington Representatives February 19 on the CMA Superfund policy. Updated advocacy documents will be explained and passed out for use in contacting members and staff in Congress and the Administration.

CMA continues to meet on a regular basis with the business community Superfund coalition to discuss the issues and exchange information.

## 2. Grassroots Activities

The new Chairman of the Government Relations Committee's Grassroots Task Group is Mr. Graham Jackson of Nalco. As Chairman of the Task Group Mr. Jackson will be working to expand the capabilities of the CMA Grassroots Program while coordinating member company's efforts. Mr. Jackson will devote 50% of his time to the Grassroots Program while serving as Chairman until 1986.

The Grassroots Program has been extremely active in January and February organizing statewide Superfund lobbying efforts in Texas, Louisiana and New Jersey. The CIC's in all of these states have been approached to participate in the Grassroots Program.

Planning for the March 13th Chemical Rally in Washington continues. Approximately 35 companies have agreed to send about 100 plant personnel representing 50 Congressmen and Senators. Senator Phil Gramm (R-TX) has agreed to speak to the Chemical Rally on the importance of Grassroots lobbying. This Washington visit by company personnel is a new lobbying technique that CMA is coordinating for the first time for the chemical industry. This effort will be valuable in communicating the impact of Superfund taxes on the chemical plants back home.

Coalitions have been organized in the following districts:  
Tauzin (D-LA-3), Breaux (D-LA-7), Swift (D-WA-2), Andrews (D-TX-25),  
Walgren (D-PA-18), Madigan (R-IL-15), Bryant (D-TX-5), Duncan (R-TN-2),

Ritter (R-PA-15) and Gephardt (D-MO-2). Additional coalition meetings will continue as long as Superfund remains in Committee in either the House or Senate.

Other Grassroots activities include the second newsletter (March release), a tape explaining Superfund, preparation for a letter-writing campaign, improved computer capability to analyze congressional districts and the Communications Department targeting media contacts in certain areas of the country.

### 3. Regulatory Developments and Response

Superfund Surface Impoundment Cleanup Guidance. The Environmental Management Committee's (EMC) Hazardous Waste Response Center submitted comments to EPA on draft Superfund surface impoundment cleanup guidance. The comments highlighted CMA's technical concerns. The final EPA guidance will specify, for the EPA regional offices, what is the appropriate method to cleanup surface impoundments.

Section 301 Analysis. The EMC's Superfund Task Group completed its analysis of the Superfund Section 301 studies. Congress asked for the studies so it could be better informed on certain key issues that would be addressed as part of the reauthorization process. The analysis identifies the key elements in the study that need to be addressed as part of CMA's overall Superfund advocacy.

### 4. Litigation and Related Legal Activities

Superfund Litigation Update. CMA published its first quarter issue of the Superfund Litigation Update in January. The Update contains a number of significant new decisions under CERCLA. Because of incurring administrative costs associated with this publication, CMA will be modifying its policies regarding its distribution of free copies of the Update. In the future, CMA will be mailing only one free copy of the Update to its member companies; this copy can then be reproduced by the company and distributed to the appropriate persons.

### 5. Communications

Shooting continues on the waste site cleanup film with interviews with EPA Administrator Lee Thomas, Clean Sites President Charles Powers, and industry experts. Film due date is April/May, 1985 with distribution to community groups, television and member companies.

Media tours were conducted in the following cities during the period on Superfund/hazardous waste issues: San Francisco, St. Louis, New Orleans, Knoxville, Tulsa, Oklahoma City and Omaha. Twelve television interviews were conducted, resulting in 265 minutes of original airtime. Fourteen radio interviews also were conducted, resulting in 375 minutes of airtime. In addition, CMA spokespersons met with editors and/or reporters at 10 newspapers in the seven cities.

Work also has begun on updating the Superfund briefing package, as well as production of a briefing tape on Superfund issues for use by the Government Relations Department in its Grassroots campaign.

## B. Waste Handling and Disposal

### 1. Regulatory Developments and Response

#### RCRA Regulations

EPA has been continuing its fast-paced activity on regulation development, in an effort to comply with the over seventy deadlines in the new legislation.

Definition of Solid Waste. On January 4, EPA published a final rule on the new definition of solid waste. 50 Fed. Reg. 614. The following are some of the major points in the new rule (comparisons are between the final rule and the April 4, 1983, proposed rule):

- o It retains the two-step analysis of the April 4 proposal, requiring evaluation of the nature of the material and the use to which it is put in order to determine if it is a solid waste. Accordingly, the new definition does not rely on the "sometimes discarded" concept.
- o It retains the exclusions from the definition for re-use of secondary material as ingredients in a process, for secondary materials used as effective substitutes for commercial products, and for secondary materials returned to the original production process from which they are generated. New 261.2(e).
- o It eliminates the exclusions from the definition for characteristic byproducts burned for energy recovery.
- o It expressly excludes spent sulfuric acid recycling from the definition of solid waste. New 261.4(7).
- o It retains the concepts of over and speculative accumulation, but combines them into one category.
- o Regarding the regulations which are applicable to recycled materials, the new rule eliminates the exemption from the regulations for two-party recycling, that is, secondary materials recycled by the person generating them or by the person who ultimately uses them.

Because of the new rule's importance, J.T. Smith of Covington & Burling and Bob Frantz of CMA Office of the General Counsel wrote an analysis of the new definition, which was published in the January 14

issue of Legal Times. The article discusses the background of the developments of the new definition and summarizes its more salient points.

Burning of Hazardous Waste. EPA proposed a rule to begin regulation of burning of hazardous waste and used oil on January 11, 1985. (50 Fed. Reg. 1684) The proposal would prohibit nonindustrial boilers from burning hazardous waste and certain contaminated waste oil. The proposal also contains administrative controls on persons who market and burn hazardous waste and used oil. The administrative controls include notification, use of a manifest or invoice system, and recordkeeping. The proposal would also expand coverage of existing storage standards to include storage of processed or blended hazardous waste fuels.

CMA's Boiler Work Group is reviewing the rule and will be preparing comments.

Codification Rule. Implementation of the new RCRA amendments is the topic of EPA's codification rule. The purpose of this new rule is to amend EPA's existing regulations to reflect those statutory provisions that have immediate or short-term effects. Issues covered in the codification rule include: liquids in landfills, liner requirements, corrective action measures, small quantity generators, preconstruction bans on proposed RCRA facilities prior to permitting, burning and sending of hazardous waste, health assessments and delisting procedures.

The rule has not been published yet due to criticism from the Office of Management and Budget (OMB). OMB has objected because the rule provides that it will be effective immediately, yet many of its provisions are agency interpretations of the new legislation, rather than being simply implementary regulations. OMB believes that the parts of the package that are interpretative require public comment before becoming final.

CMA's RCRA Regulations Task Group is analyzing the codification rule and preparing to provide input to EPA.

## 2. Technical and Research Activities

RCRA Amendments Seminar & RCRA Compliance Workshop. The EMC's RCRA Regulations Task Group, in conjunction with EPA, held the first of two seminars on the recently enacted RCRA amendments and how to comply with RCRA. The January 30-31, 1985, sessions were held in Houston, Texas and were attended by 175 persons from 75 companies. The second session will be held March 25-26, 1985, in New York City. The seminars are open to all Chemical Industry Council members and to all Council of Chemical Association participants and their respective members.

### C. Groundwater

#### 1. Technical and Research Activities

Ad Hoc Groundwater Coordinating Committee. The EMC's ad hoc Groundwater Coordinating Committee has updated the groundwater work plan and established deadlines for the various stages of the plan projects. The work plan will assure that necessary projects are identified, staffed, and conducted in a timely fashion. The work plan is updated on at least a monthly basis.

#### 2. Communications

Production has been completed on series for television and radio on groundwater issues.

### D. Government Control of Chemical Production/Innovation (TSCA)

#### 1. Congressional Developments and Responses.

TSCA Reauthorization. Senator David Durenberger's (R-MN) highest priority regarding TSCA amendments is increased testing for existing chemicals and reducing confidentiality claims continues to be a strong concern. CMA submitted a detailed response to the Durenberger amendments package, S. 3075, and will make suggestions for improving the ITC/testing process. We indicated an effective follow-up mechanism for new chemicals is needed and discussed confidentiality concerns.

The membership of the Senate Environment and Public Works Committee has not been decided and it is unclear whether Senator Durenberger will remain on the Committee. Such changes are not seen as significantly affecting the Senate Committee's drive for TSCA reauthorization/amendments, but could certainly change the timing and possible scope of such amendments.

In the House, Congressman James Florio (D-NJ) introduced on February 6 a series of 4 bills amending TSCA and RCRA, OSHA, the Clean Air Act and the Hazardous Materials Transportation Act. H.R. 965, the "Chemical Manufacturing Safety Act of 1985," would amend TSCA to provide for the following:

- o Community right to know requirements, including hazardous substance fact sheets, status sheets and emergency bulletins, and public disclosure thereof;
- o Limited trade secret protection, including substantiation requirements;
- o Emergency response and evacuation requirements;
- o Strict, joint and several liability for accidental releases, including compensation for medial expenses,

loss of income, pain and suffering, and property damage;

- o A wide range of covered hazardous substances under OSHA, NTP, ACGIH, NFPA, NIOSH, IARC, FIFRA, NCI, CERCLA, and certain other carcinogens, teratogens, mutagens or neuro-toxins, and mixtures would be included;
- o Any federal standard would not pre-empt more stringent state right to know laws; and
- o A provision subjecting the manufacture (as opposed to the finished product) of a pesticide to the requirements of TSCA.

CMA's new Health and Safety Committee has received a copy of the Florio amendments relating to TSCA, and will be working on the response. We will continue to coordinate our positions on TSCA reauthorization, as well as the Florio amendments, with the coalition of allied trade associations.

## 2. Regulatory Developments and Response

TSCA Dialogue Group. The Conservation Foundation set up a dialogue group on TSCA. The group will try to reach a consensus on aspects of TSCA that could be improved by legislation. CMA joined other trade groups, environmentalists, and state groups in the dialogue group's first meeting on February 26.

National Governors' Association Workshop on TSCA. The National Governors' Association will sponsor a workshop entitled "Role of States in the Toxic Substances Control Act," March 7-8. The workshop is designed to provide state officials an opportunity to discuss how TSCA can be used to better serve the needs of states. CMA has accepted an invitation to participate in the workshop.

Proposed Revisions to Premanufacture Notification (PMN) Rule. EPA's Office of Toxic Substances proposed revisions to the PMN rule under TSCA Section 5. These revisions are being proposed for parts of the rule that EPA stayed in response to a CMA petition. The proposed rule includes provisions that would clarify a manufacturer's responsibility to submit data with a PMN and provisions that would regulate a manufacturer's R&D activities prior to PMN submission. The Notification and Reporting Task Group is reviewing the proposal and will submit comments to the Agency.

Proposed Changes to Section 8(c) Rule. EPA proposed changes to the recordkeeping and reporting rule issued under Section 8(c) of TSCA. The Section 8(c) rule requires chemical manufacturers and processors to keep records if they receive allegations of significant adverse reaction to chemical substances they manufacture or process. EPA proposed the changes to clarify four issues raised by the final rule. The Notification

and Reporting Task Group is reviewing the rule and will submit comments to EPA.

CMA Comments Under Section 8(a) and 8(d). In January, CMA filed comments in response to EPA's proposed inclusion of ITC-recommended chemicals in the automatic reporting provisions of section 8(a) and 8(d) rules (49 Fed. Reg. 45598 for section 8(a); 49 Fed. Reg. 45602 for section 8(d)). CMA supports the effort to get more information to the ITC during its evaluation of testing needs. CMA proposes that ITC should initially recommend but not designate chemicals to be tested, under Section 4 of TSCA. At the end of a six-month data-gathering period, recommended chemicals would then be designated for EPA action unless the information available demonstrated that testing was unnecessary. CMA suggests minor modifications in EPA's proposals to improve implementation of the reporting requirements.

TSCA's Relationship to Other Laws. On February 1, 1985, EPA announced that it will refer occupational risks associated with asbestos, 4-4'-Methylenedianiline, and glycol ethers to OSHA and will refer consumer risks associated with asbestos to the CPSC for possible regulation by those agencies. CMA endorses EPA's current position, which acknowledges that TSCA is only a gap-filling statute. EPA will refer unreasonable chemical risks to other agencies. EPA will regulate only if the other agencies agree that the risk may exist and they fail to exercise their regulatory power within a reasonable time.

### 3. Technical and Research Activities

New Chemical Assessment Under TSCA. CMA has contracted with an outside technical consultant to assist industry representatives in describing CMA's new chemical assessment and follow-up alternatives to burdensome TSCA amendments. Moreover, CMA will use that description in its discussions with EPA on administrative solutions to improve the new chemical review system.

### 4. International Regulation

A limited meeting of the IAG-CEFIC Joint Work Group on Chronic Hazards was held in Brussels January 24, to plan for a full-scale meeting of IAG and CEFIC delegations in early April, in Brussels. The scientific experts recruited by IAG and CEFIC are uniformly high in competence and in dedication to harmonizing classifications, criteria, and warning phrases of chemical carcinogens, mutagens, and teratogens, in the EEC and U.S. requirements for labeling chemicals. The emphasis is on maximizing use of existing definitions developed by organizations such as the International Association for Research on Cancer, the (U.S.) National Toxicology Program, the European Chemical Industry Toxicology and Ecology Centre, and EPA.

A proposal for major changes in the Swedish law controlling chemical products has prompted IAG and associations concerned with adhesives, paints and coatings, and pesticides to coordinate with the U.S. Trade Representative's Office in preparing comments. Representatives of those

CMA member companies with production or marketing interests in Sweden comprise the IAG delegation.

A large factor in the differences between CMA's and CEFIC's response to the Bhopal disaster is the existence of EEC's "Seveso" Directive. This deals with "the major accident hazards of certain industrial activities." Because this encompasses all the aims of present congressional initiatives, IAG is analyzing its implementation by the individual EEC Member States to determine its cost effectiveness.

## 5. Litigation and Related Legal Activities

NRDC v. EPA (Test Rule Litigation). CMA's appeal of the district court decision, in which CMA seeks to have negotiated testing agreements reinstated as a legitimate procedure, has been docketed and is scheduled for briefing in February and argument in April. Unfortunately, the Government has decided to withdraw its appeal and may not support our appeal. In a February 7 meeting that CMA requested with the Government's lawyers, the Government voiced strong displeasure at our decision to pursue this appeal, although it offered no substantial legal argument against our position. CMA will proceed, but if the Government maintains its position, it will substantially weaken our case.

CMA v. EPA (SNUR Litigation). CMA has petitioned for judicial review of certain requirements on EPA's general regulations for compliance with significant new use rules (SNURs) under section 5 of TSCA. EPA has filed the administrative record with the court, and CMA's brief is now due in early March. In order to narrow the scope of the case and explore the possibility of settling some issues, CMA met with government lawyers and EPA staff on February 5. EPA has prepared drafts of changes to the rule which allay several of CMA's concerns in this case, and these will probably be dropped from the case. On the most important issue, however, the government defended its requirement that manufacturers of a chemical notify all their customers in writing of a SNUR on that chemical. CMA stated its position that this requirement exceeds EPA's legal authority. The government agreed to explore reconsideration of it with EPA management and will respond to us in a couple of weeks. If EPA will reconsider, CMA will ask to postpone any further proceedings in court.

## 6. Communications

An editorial board briefing package to support CMA's position on reauthorization of the Toxic Substances Control Act has been drafted.

## E. International Trade/International Competition

### 1. Congressional Developments and Response

Generalized System of Preferences (GSP). The Generalized System of Preferences (GSP) is a system which provides duty-free treatment for certain imports, including major chemicals, from most developing countries. The program, in effect since 1976 and originally due to expire

in January 1985, was reauthorized through July 1993 by the Trade and Tariff Act of 1984. CMA has gone on record in favor of GSP's reauthorization.

The renewed program continues the existing system with very few changes. Because of the efforts of CMA and other organizations, there are now provisions which require the President to take into account the degree to which a beneficiary country protects the intellectual property rights of U.S. companies. The new law also contains provisions to limit preferential treatment to countries which have achieved a higher level of economic development.

The Office of the U.S. Trade Representative is working on draft regulations to implement the new law. CMA plans to work with the other members of the Office of the Chemical Industry Trade Advisor (SOCMA, SPI and NACA) to insure that the regulations reflect the intent of the Congress in implementing the renewed GSP system.

Export of Hazardous Substances. At the January meeting, the CMA Board approved the policy that CMA actively support the publication of a draft White House policy on the export of hazardous substances. The CMA Ad Hoc Group on the Export of Hazardous Substances met on February 15 to plan appropriate strategy to implement this decision. The Ad Hoc Group contains representatives from the National Agricultural Chemicals Association, the Pharmaceutical Manufacturers Association, and the Synthetic Organic Chemicals Manufacturers Association in addition to CMA.

Representative Michael Barnes (D-MD) has introduced legislation in the last three congresses which would require much more stringent regulations than is called for in the White House draft. Mr. Barnes is expected to once again introduce such legislation in this Congress.

Import Surcharge. A recent study by Data Resources, Inc. (DRI), which was commissioned by Motorola, Inc., has projected that a tariff surcharge of 20 percent imposed in 1986 would greatly reduce both the U.S. budget and trade deficit. The proposed plan lowers the surcharge to 15 percent in 1987, 7 percent in 1988, and eliminates it in 1988. The proposal of an import duty surcharge has the qualified support of Senator Richard Lugar (R-IN), incoming Chairman of the Senate Foreign Relations Committee. Because of increasing business support of the proposal, spearheaded by President J. F. Mitchell of Motorola, more Congressional support is expected to develop.

CMA's International Trade Committee will soon address this issue in an attempt to recommend a CMA position. Although the U.S. chemical industry continues to enjoy a trade surplus, it has diminished over the last four years, due in part to the strength of the dollar. The likely effect of the surcharge would be to allow our industry's trade surplus to increase.

## 2. International Negotiations/Agreements

Bilateral Free Trade. The Trade and Tariff Act of 1984 authorizes the President, upon proper notification of the Congress, to enter into bilateral trade negotiations between the United States and a foreign government so long as negotiations are requested by the foreign government. Prior to its recent elections, the Canadian government had indicated an interest in free trade negotiations for certain sectors including petrochemicals. Although no negotiations for this sector have been scheduled, the U.S. government is currently conducting investigations to determine the possible effects of a bilateral free trade arrangement.

Both the U.S. International Trade Commission (USITC) and the Trade Policy Staff Committee (TPSC) held public hearings on this issue during January. CMA had notified its members of the hearings. Numerous CMA members have filed written statements for the record and one testified to the USITC.

An ad hoc work group of the CMA International Trade Committee (ITC) is currently drafting a proposed position on this issue for consideration by the ITC. All aspects of a bilateral agreement's affect on chemical imports, exports, and investments are being examined.

Multilateral Trade Negotiations. The reduction in duties levied on imports which were implemented by the Trade Agreements Act of 1979 are drawing to a close with the last staged tariff reduction to occur on January 1, 1987. The Trade and Tariff Act of 1984 allows, upon proper Congressional notification, for bilateral trade negotiations between the U.S. and any trading partner which seeks them. Ambassador William Brock, the U.S. Trade Representative, has been calling for even greater negotiating authority in the form of a new round of multilateral trade negotiations.

President Reagan, in his State of the Union Address, requested authority to begin "a new round of trade negotiations to expand trade and competition, and strengthen the global economy." He also urged that these talks begin in 1986. CMA's International Trade Committee will continue to monitor this issue and will, through the Office of the Chemical Industry Trade Advisor, attempt to present a united chemical industry front to the U.S. government.

## F. Occupational Safety and Health

### 1. Congressional Developments and Response

Worker Right-to-Know. On February 6, Congressman James Florio (D-NJ) introduced H.R. 963, which would eliminate the federal pre-emption of any state worker right to know law which is more stringent than the OSHA hazard communication standard. In effect, this would eliminate the uniformity of national requirements, as the OSHA standard would become the floor and not the ceiling for state efforts on right to know. The Florio

bill has been referred to the House Education and Labor Committee. It's Subcommittee on Health and Safety, chaired by Rep. Joe Gaydos (D-PA), has scheduled another hearing on workplace safety related to the Union Carbide plant in Institute, WV, on February 19. The Florio bill has been given to CMA's new Health and Safety Committee for development of a response.

## 2. Regulatory Developments and Response

Community Right-to-Know Issues Analysis. The Joint Right-to-Know Task Group analyzed the elements of community right-to-know and is drafting the industry preferred position on community right-to-know.

Interim Guidelines for State Programs on Hazard Communication. The Joint Right-to-Know Task Group developed guidelines for use in state right-to-know legislation. The guidelines set forth CMA positions on coverage of non-manufacturing employers, emergency response information, community access to information, material safety data sheet and labeling requirements, and on protecting trade secrets. The guidelines support the OSHA hazard communication standard yet provide a framework under which states could administratively tailor the scope and coverage of hazard communication programs without causing a burden on commerce or conflicting with the federal standard.

## 3. Technical and Research Activities

Multigeneration Reproductive Toxicology Studies. The OSH Committee contracted with Argus Research Laboratories to critically review multigeneration reproductive toxicology studies that have previously been identified as demonstrating adverse outcomes. The goal of the review is to evaluate whether the number of generations and the number of litters needed per generation can be determined.

Carcinogen Risk Assessment Guidelines. In comments to EPA on their proposed carcinogen risk assessment guidelines, the OSHC Cancer Policy Work Group supported the issuance of guidelines and the Agency's distinction between risk assessment and risk management. The comments did, however, recommend some substantive changes that would more accurately reflect the process of carcinogenesis. In particular we addressed elements of hazard identification, dose-response and exposure assessment, and criteria for classifying chemicals as carcinogens.

Developmental Risk Assessment Guidelines. The OSHC Reproductive Hazards Work Group commented to EPA that the proposed developmental risk assessment guidelines do not adequately distinguish between risk assessment and risk management. We also commented that the assessment of functional teratology should not be applied in the regulatory setting given the current state of scientific knowledge. We commended EPA for proposing a flexible approach in the use of risk assessment methods.

Mutagenicity Risk Assessment Guidelines. In comments to EPA on their proposed mutagenicity risk assessment guidelines, we supported EPA's efforts to establish a sound scientific framework for evaluating mutagenicity data. Because of the limited state of scientific knowledge,

however, we recommended that EPA exercise considerable caution in developing these guidelines. We specifically addressed the lack of validated test systems, limitations in the proposed classification scheme, and the lack of data in support of using a linear extrapolation model for quantitative risk assessment.

Process Safety Management Workshop. The Process Safety Analysis Task Group has completed plans for a Workshop on Process Safety Management. The program, to be held May 7-8 at the Sheraton Crystal City in Arlington, Virginia, will offer participants an opportunity to learn about and exchange ideas on process hazard identification, assessment and control.

#### 4. Litigation and Related Legal Activities

Hazard Communication Litigation. This litigation involves the United Steelworkers' and five states' challenge to OSHA's hazard communication standard. CMA is an intervenor-respondent in the case, which has been scheduled for disposition on the merits on March 18, 1985. A week before the disposition date, counsel for the parties will be notified whether there will be oral arguments or whether the case will be decided on the briefs.

#### 5. Communications

The Communications Department provided reaction to the press coverage of Nader's challenge to a NIOSH decision not to alert workers to exposure to potentially carcinogenic materials. These comments were incorporated, favorably, into Washington Post editorial.

Five-part television and radio series on safety were released during this period to CMA's network of 350 TV and 2500 radio stations following the accident in Bhopal, India. Usage among TV outlets is running at 36%.

In addition, planning has begun on media activities related to the pending announcement of industry initiatives to expand emergency response capabilities (CAER) and develop the National Chemical Response and Information Center.

#### G. Clean Air

##### 1. Congressional Developments and Response

Waxman Questionnaire. Congressman Henry Waxman (D-CA), chairman of the House Energy and Commerce Committee's Subcommittee on Health and the Environment, has recently launched a strong effort for House consideration of changes to Section 112 of the Clean Air Act. Since the air emissions incident in Bhopal and the Congressional hearings held in Institute, WV, Waxman has initiated a broad inquiry into the practices of the chemical industry.

Waxman sent a letter dated January 31 to many CMA member companies requesting that they submit "the most recent inventory of potential and actual poison gases leaking into the air" from all plants. In addition, he requested information on health effects and types of air pollution control systems. Waxman plans to hold hearings relative to this information.

Florio Section 112 Amendments. Congressman James Florio (D-NJ), a new member of the Subcommittee, introduced H.R. 967 on February 6 regarding control of hazardous air pollutants from stationary and mobile sources. This bill would amend Section 112 of the Clean Air Act. The bill is very similar to the Section 112 provisions of H.R. 5314, the Clean Air Act amendments introduced in 1984 by Congressmen Wirth and Waxman. CMA opposed H.R. 5314. Both H.R. 5314 and H.R. 967 call for "automatic listing" of specified pollutants, overly stringent standard-setting criteria, and a complicated and cumbersome permitting system. H.R. 967 does differ from the earlier bill in at least one respect: it includes methyl isocyanate on the list of substances which EPA must review for Section 112 listing decisions.

Dingell Oversight Hearings. Congressman John Dingell (D-MI), chairman of the Energy and Commerce Committee, may hold hearings soon before his Subcommittee on Oversight and Investigations. Dingell has sent to EPA two letters containing questions regarding hazardous air emissions, emergency response, MIC and Section 112 of the Clean Air Act and OSHA. EPA responses are due to Dingell by the end of February.

## 2. Regulatory Developments and Response

Air Modeling Testimony. The EMC's Air Dispersion Modeling Task Group developed testimony presented by the task group leader at EPA's triannual conference on EPA air models. CMA's testimony highlighted concerns with the Agency's proposed listing of approvable models. The EPA models that are finally approved will be the only models that can be used for obtaining Clean Air permits or for demonstrating compliance.

## 3. Litigation and Related Activities

Benzene NESHAPS. The litigation on EPA's benzene decision has been held up by NRDC's filing of an administrative Petition for Reconsideration of those decisions with EPA. That petition requests EPA to reopen the benzene proceeding on the basis of allegedly new, previously unavailable health risk information. That information, NRDC claims, shows that the cancer risk posed by benzene is substantially higher than EPA estimates. The studies cited by NRDC include the CMA-sponsored 1983 study on the mortality in workers occupationally exposed to benzene. CMA filed a response to the petition on January 15, urging EPA to deny the petition. CMA states in the response that none of the information cited by NRDC, including the CMA study, supports NRDC's claim that a higher risk number is appropriate. In fact, when these and other studies are fully and accurately examined, they provide further support for EPA's risk estimates. After filing the petition, NRDC filed a motion with the court requesting that the court order EPA to consider the petition an

expedited timetable. EPA, API and CMA have all filed responses opposing this request. The court should rule on NRDC's request soon. When it issues its ruling, the court will probably also set a briefing schedule in the litigation.

Radionuclide NESHAPS. On December 11, 1984, the United States District Court for the Northern District of California found that EPA had acted in contempt of court by deciding to issue no standards for emissions of radionuclides into the ambient air. The court had earlier ordered EPA to take one of two actions: 1) set emission standards for sources of radionuclides, or 2) remove radionuclides from the list of hazardous air pollutants. In response, EPA decided on October 31, 1984 to retain radionuclides as a hazardous air pollutant, but to issue no emission standards at the present time. On December 11, the court declared EPA's action to be in contempt of court, and gave EPA two options to purge the contempt: 1) delist radionuclides, or 2) issue final standards for the four source categories as to which EPA had proposed standards in 1983. (These proposals had been withdrawn on October 31.) Three of the standards were to be issued within 30 days of the court's order, (January 11), and the fourth must be issued within 120 days of the court's order (April 10).

EPA has appealed the district court's order to the Ninth Circuit. EPA also sought to obtain a stay of the order by pending appeal, to eliminate the necessity of setting standards on the basis of an order which could later be invalidated. However, the application for a stay was refused by the district court, Ninth Circuit, and Supreme Court. As a result, EPA issued standards on January 17 for three source categories: 1) Department of Energy facilities, 2) other Federal facilities and facilities licensed by the Nuclear Regulatory Commission, and 3) elemental phosphorus plants. EPA has stated that these regulations require only that current control practices be followed, on the grounds that existing controls provide an ample margin of safety to protect the public health.

The radionuclides standards, and perhaps the decision to list radionuclides as a hazardous air pollutant, will be reviewed by the D.C. Circuit in litigation brought by environmental and industry groups. This case, and the Ninth Circuit appeal of the district court's contempt order, will probably produce important rulings on the meaning of Section 112 of the Clean Air Act and EPA's interpretation of that provision. Since CMA has a strong interest in Section 112, we are currently considering whether to participate in either or both of these cases in order to present our views on Section 112 to the courts reviewing the cases.

NPDES Citizen Suits. CMA is continuing to monitor the progress of the environmental groups' citizen suit program. These groups have been filing suits around the country against industrial plants allegedly in violation of their NPDES permits. In one of these cases, Hudson River Sloop Clearwater, Inc. v. Consolidated Rail Corp., CMA has joined several other industry trade associations in an amicus curiae brief in support of the defendant. The brief, filed on behalf of CMA, API, SOCMA, and the Chamber of Commerce of the United States, supports the lower court's decision that a state agency's administrative consent order barred

a subsequent citizen suit for the same violations. The amicus brief was filed on January 24.

#### H. Clean Water

##### 1. Congressional Developments and Response

Clean Water Act Amendments. On January 3, Senator Robert Stafford (R-VT) introduced the Clean Water Act Amendments of 1985, S. 53. It combines the language of the former S. 431 and S. 2006, including committee amendments that would have been offered upon floor consideration last Congress. One major difference is that the new bill provides for continued funding of the sewage treatment construction grants program at current levels; S. 431 did not address the construction grants program. Current Senate plans call for several hearings on construction grants, then markup of S. 53 in the Subcommittee on Environmental Pollution beginning in April. In late February, Senator John Chafee (R-RI) may introduce a bill focusing on construction grant funds, and begin Subcommittee hearings.

Also, on January 3, Rep. James Howard (D-NJ) introduced Clean Water Act amendments as H.R. 8. This bill essentially is identical to the House-passed version of H.R. 3282 in the last Congress. By spring, brief hearings are anticipated primarily regarding construction grant funding levels.

CMA has begun to meet with House and Senate committee staff to explain our updated recommendations for changes in the act, including major revisions needed in S. 53 and in H.R. 8.

##### 2. Regulatory Developments and Response

New York Water Quality Standards. The EMC's Water Quality Criteria and Standards Task Group, at the request of the State Affairs program and several member companies, submitted comments on the State of New York's proposed water quality standards. The comments highlighted CMA's technical concerns with the proposed standards. The final standards will be used by the State of New York in issuing revised NPDES permits.

Stormwater Regulations. CMA has succeeded in its effort, with other industry groups, to persuade EPA to revise the NPDES stormwater regulations. EPA has announced that it plans to make two significant changes to these regulations: 1) the application filing date will be changed from March 26 to December 31, 1985, and 2) the requirement that all Group I discharges submit analytical data with their applications (on Form 2C) will be eliminated. These changes will probably be issued in proposed form by the end of February and finalized before April 26. (In the proposal, EPA would note that the March 26 date was a technical error and would change that date to April 26, effective immediately.) During the period between April and December, EPA would work with industry and other affected parties (states, municipalities, etc.) to obtain analytical data on a number of stormwater discharges "representative" of various

categories of stormwater discharge. EPA would use this information to assess and prioritize applications submitted on December 31. This process could lead to a new strategy for controlling stormwater runoff -- for example, general permits for different categories of stormwater discharges. EPA has requested that CMA and other industry parties participate in the discussion concerning the nature of the data collection effort to be undertaken. CMA will participate in these discussions, which will begin very soon.

EPA's decision to revise its stormwater regulations appears to have been a result of industry's concerted effort to demonstrate to EPA that the current regulations are inappropriate. CMA has played a major role in that effort. For instance, CMA's outside counsel acted as lead industry spokesman in the December 18 industry meeting with Assistant Administrator for Water, Jack Ravan. After that meeting, CMA sent a detailed letter to Mr. Ravan explaining CMA's concerns with the regulations and the reasons why a deferral of the application date was necessary. That letter was also sent to all CMA Environmental Contacts, who were encouraged to submit to Mr. Ravan their own letters, setting forth their companies' concerns and factual data supporting those concerns. EPA has told us that they have received many such letters. It appears that this effort contributed significantly to EPA's favorable decision.

### 3. Litigation and Related Legal Activities

NPDES Regulations Litigation. CMA and the other industry parties to the NPDES litigation are currently preparing the joint industry briefs, which are due March 11. It appears that the following issues will be litigated by industry: 1) toxicity limits, 2) anti-backsliding, 3) bypasses, 4) EPA veto of state permits, 5) stormwater, 6) construction ban/NEPA, 7) upsets, 8) net/gross, 9) non-adversary panel procedures, 10) actual production, 11) Discharge Monitoring Report (DMR) certification, 12) (possibly) toxics threshold limits, and 13) (possibly) current use or manufacture of toxics. CMA will take the lead in drafting the briefs on toxicity limits, bypasses, EPA veto, and possibly, threshold limits and current use or manufacture.

### I. Chemical Product Distribution

#### 1. Congressional Developments and Response

Hazardous Materials Transportation. Legislative proposals pertaining to the transport of hazardous materials and emergency response are expected to be introduced in both bodies of Congress. Senator Frank R. Lautenberg (D-NJ) has indicated a desire to propose a chemical safety bill that would include provisions pertaining to hazardous materials transportation. Representative James J. Florio (D-NJ-1) has similarly stated that, as part of a chemical manufacturing safety act, there should be a measure that would create a federal regional training program for local firefighters and police who deal with truck and train accidents involving hazardous chemicals.

Increased public sensitivity to the potential for chemical accidents will draw increased Congressional attention to hazardous materials transportation and safety issues in general. Advocacy by state and local groups and results of congressionally mandated studies will also stimulate the hearing process.

A proactive approach to improved emergency response and training programs and implementation of "CHEMNET" is under way by CMA. CMA also continues to provide coalition leadership in seeking a consensus approach to federal/state/local uniformity of hazardous materials transportation regulations.

Rail Competition. Senator Wendell H. Ford (D-KY) and Representative Nick J. Rahall (D-WV-4) have introduced legislation that would set standards for rail rates and determining when rail carriers have market dominance. Additional bills will soon be introduced addressing such issues as rail access, rate regulation and anti-trust practices.

Differing views exist among the many shipping coalitions that have been formed as to whether the Staggers Rail Act of 1980 needs refinement, major amendment or left to proper implementation by the Interstate Commerce Commission (ICC). Activity is expected to intensify when hearings are scheduled and the ICC completes a rule-making presently underway that addresses rail competition.

CMA will work to maintain and enhance rail-to-rail competition and insure proper implementation of existing law. Negotiations are underway with the railroads and discussions with congressional leaders and ad hoc groups will continue as pro-competitive measures are proposed.

Conrail. An Administrative priority for this year is the transfer of Conrail, the government-owned freight railroad, to the private sector. Transportation Secretary Elizabeth Dole has decided on Norfolk Southern Corporation as the successful bidder to purchase Conrail. Norfolk Southern Corp. would need to comply with a Justice Department report regarding the antitrust implications of the sale. A report on the tax implications of the sale being prepared by the Treasury Department may also affect the sale terms.

Debate regarding the sale and potential buyer of Conrail will center in Congress where approval must be obtained to complete the process. Concern has been expressed during hearings that provisions must be included in any agreement to assure competition. Legislation has also been introduced that would require Conrail to be sold by a public offering rather than a private bidder.

Shipping costs for the chemical industry could be much affected by the disposition of Conrail. CMA has met the potential Conrail buyers and communicated to key members of the Administration and Congress the need for assured competition in the Northeast Corridor.

Senate Study. The Senate Committee on Commerce, Science, and Transportation has directed the Office of Technology Assessment to initiate

a research study on the transportation of hazardous materials. The study will focus on the following areas: data information systems; accident analysis; container technology; risk assessment; existing regulations; state and local emergency response capabilities; and training programs. The findings and conclusions are due in early 1986.

Hazardous Material Transportation Advisory Council. CMA is also participating on the National Hazardous Materials Transportation Advisory Council. This Council was established to provide the Secretary of Transportation with input on how to improve the effectiveness of the federal regulatory scheme. A key element of this group's responsibilities is to analyze industry and government emergency preparedness roles and responsibilities. CMA's establishment of CHEMNET and its work on first responders training will have a significant impact on this analysis.

## 2. Regulatory Development and Response

Hazard Classification. The Department of Transportation published a notice of proposed rulemaking (HM-196) focusing on the packaging and placarding for liquids that are toxic by inhalation. This action resulted from criticism following the incident in Bhopal, India. The National Transportation Safety Board identified several shortcomings in the existing DOT regulations. CMA is developing comments on this notice which are due by March 14, 1985.

Tank Car Compensation. The CMA Car Compensation Subgroup is nearing a compromise with the railroads and other car providers on appropriate levels of compensation. The primary issue remaining is whether the compromise is enforceable. ICC Administrative Law Judge Clerman has issued a decision stating that the ICC is so authorized, however he fell short of prescribing the enforcement criteria.

Placarding. The Emergency Response Work Group is reviewing a petition submitted by the National Tank Truck Carriers to DOT regarding placards. The NTTC petition states that "the current placard construction requirements allow placards to be legally made that are too flimsy to withstand the rigors of truck transportation."

Emergency Response/Uniformity. The Office of General Counsel, along with other CMA departments, is implementing a four-part workplan that would improve emergency response, promote uniform federal, state, and local restrictions on hazardous materials transportation, and possibly avert a new "transportation superfund" or use of existing Superfund monies to pay for state and local emergency response teams. The Chemnet portion of the plan was approved by the Board at its January meeting. CHEMNET is essentially a mutual aid system where, if a shipper cannot promptly respond to a serious transportation incident, another chemical company or for-hire response team could be called on to the scene. CHEMNET and the other three parts of the program are intended to be a pro-active response to concerns about emergency response preparedness that have been heightened by Bhopal, as well as pressures at the federal, state and local level that emergency response teams be established in every city and paid for with industry funds.

Competition Among Railroads. The Interstate Commerce Commission (ICC) recently instituted Ex Parte 456 to allow shippers and railroads to negotiate a proposed rule. The rule would be intended to resolve problems associated with the ICC's implementation of the provisions of the Staggers Rail Act governing competition among railroads. CMA's major concern is that if only a single railroad serves a chemical plant or receiver, the railroad may prevent competitor railroads from obtaining access to the shipper's traffic by refusing to interchange traffic with the competitor or by charging rates that commercially prevent competition. CMA's position would basically apply the principles of the "essential facilities" doctrine of the antitrust laws railroad activity. CMA in-house and outside counsel have participated in several negotiating sessions, but a settlement appears unlikely. This is primarily because the railroads are requesting CMA to agree not to seek legislative correction to all issues under the Staggers Act, not just the competition issues. The railroads have offered little beyond current law as their concession, and what they have offered is clouded by ambiguity.

U.S./CSG Cargo Reservation Talks. CMA is urging the U.S. Inter-Agency Maritime Policy Group to enter into an international agreement with the developed countries of Europe and Japan (the "Consultative Shipping Group"). The agreement would constrain the U.S. from enacting protectionist legislation that would result in higher freight rates for the U.S. chemical exporters and importers. CMA counsel participated as a shipper observer at the international negotiations in Washington, D.C., January 22-24. An agreement that would favor U.S. chemical shippers appears imminent.

### 3. Rates and Compensation

Collective Rate Setting by Chemical Bulk Tankers. The Federal Maritime Commission (FMC) recently ruled that the vessels that transport nearly half of all bulk chemicals ("chemical parcel tankers") may lawfully set rates and allocate territories among themselves if they operate as "ocean common carriers." CMA opposed this position by arguing in two FMC proceedings that the Shipping Act of 1984 was not intended to immunize rates and service regarding bulk chemicals. CMA is considering a legislative correction to what it believes is a misinterpretation of the legislative intent.

### 4. CHEMTREC

Salvage Drum Program. CMA/CHEMTREC closed out its open enrollment for the Salvage Drum program. Twenty-six companies joined, which expanded the system to eighty-seven participants. The new update directory will be mailed to participants on February 15, 1985.

Increased Chemtrec Activity. There were approximately twenty-five percent more emergency calls to the CHEMTREC system during January, 1985, than there were for that period a year ago. The increase may indicate that more public emergency services are seeking the advice of industry in handling chemical spills. Further, there has been a marked increase in

telephone activity since the Bhopal incident, and it appears that this will not subside in the near future.

#### 5. Technical and Research Activities

Chemical Distribution Conference. The Distribution Committee is planning to hold a conference in Philadelphia on April 9-10, 1985, to discuss the latest national and international activities affecting the distribution of chemicals. Feature speakers will include: James Burnett, Chairman, National Transportation Safety Board; James Carey, Vice Chairman, Federal Maritime Commission; and Andrew Strenio, Commissioner, Interstate Commerce Commission. CMA safety activities will also be discussed.

CHEMTREC Workshops. Arrangements have been made to present two CHEMTREC Emergency Response Team Workshops this year. Instruction will again be provided by Texas A&M University. The first one will be held on April 2-3, in New Orleans, LA. The second on October 29-30, in Baltimore, MD.

Emergency Response Guidebook. The Department of Transportation has again asked CHEMTREC to assist in reviewing and updating their Emergency Response Guidebook. CMA member company personnel and CHEMTREC staff assisted in updating the 1984 Guidebook.

Motor Carrier Safety Profile. Shipper and carrier participation in the motor carrier has been light thus far. CMA, the American Trucking Association, and National Tank Truck Carriers are working to increase participation.

#### 6. Litigation and Related Legal Activities

Tank Car Allowance. On January 11, 1985, CMA proposed a long-term resolution of the of the last two years of negotiations over tank car allowances. The proposal would, next year, reduce by about 5.2 percent the level of allowances the railroads pay CMA members for use of their tank cars. Also, the proposal would establish an "enforceability" policy whereby the ICC would investigate the lawfulness of a railroad tariff that pays an allowance lower than prescribed by the ICC. Further, the proposal would continue the current practice of the Commission issuing an order prescribing an allowance system. The railroads and other car providers are 90 percent in agreement with CMA's proposal.

#### J. Energy and Petrochemical Feedstocks

##### 1. Congressional Developments and Response

Energy Tax. The imposition of new or additional energy taxes might be considered in this session of Congress as a means to generate revenue to reduce the Federal deficit, or possibly as an additional funding source for the extension of the Superfund law. Proposals that may be considered include a broad-based consumption or sales tax on energy, a

BTU tax, a value-added approach, crude oil excise taxes, oil import fees and an increased gasoline excise tax.

The Senate Energy and Natural Resources Committee has scheduled a hearing for mid-February on how the Treasury's proposed tax simplification plan regarding energy taxes will affect the domestic oil and gas industry. Senate Finance Committee Chairman Bob Packwood (R-OR) has also indicated that some form of a tax on energy will be under consideration. No hearings have been announced on the House side.

The economic impact of various energy taxes on certain chemicals is being reviewed at CMA. CMA advocacy and liaison with other industry groups is oriented in opposition to energy taxes.

Emergency Preparedness. Titles I and II of the Energy Policy and Conservation Act of 1975 are scheduled to expire June 30. Those provisions provide authority for the Strategic Petroleum Reserve (SPR) and U.S. participation in the International Energy Agency. Reauthorization legislation is a potential vehicle for any energy or emergency planning proposal.

Hearings on an extension of the existing law will provide a forum for debate over the control and distribution of the SPR and its fill rate. Additional emergency planning proposals including price and allocation control authority could be considered. Amendments are expected that would provide state block grants or assistance to those disadvantaged by a petroleum emergency. Domestic refinery policy is also emerging as a subject of Congressional interest.

Allowing free market forces to continue to operate, while avoiding government price and allocation controls on feedstocks, is the essence of the CMA position. CMA also supports use of the SPR with an auction system for distribution.

Natural Gas. With price controls lifted on most of the natural gas supply and with the current public acceptance of market conditions, Congressional interest in struggling with natural gas issues has waned. The debate over gas prices, therefore, has primarily moved to the regulatory arena where the Federal Energy Regulatory Commission (FERC) rule-making process has intensified.

Transportation of gas or contract carriage is now the focus of Congressional attention. Some groups support a limited amendment to repeal gas incremental pricing provisions and Fuel Use Act restrictions, but any such attempt is certain to provide an opportunity to require pipelines to move gas for others and inject more competition into the marketplace.

CMA supports the President's goal of total deregulation of all natural gas and continues to oppose any legislation that would extend or maintain price controls. Equal access to gas supply and the non-discriminatory transportation of gas are objectives of the CMA advocacy program. CMA believes that a mandatory contract carriage

provisions is an essential part of any natural gas legislative or regulatory reform measure.

## 2. Regulatory Developments and Response

FERC Notice of Inquiry. CMA responded to the first Notice of Inquiry on interstate natural gas transportation issues and had indicated strong support for the Federal Energy Regulatory Commission's (FERC) goal of increasing competition in the natural gas marketplace. Specifically, CMA advocated equal access to all natural gas supplies for all gas purchasers, and that gas transportation service be available to non-pipeline-owner-shippers, including gas from the Outer Continental Shelf (OCS). CMA has asked FERC to promulgate regulations that encourage equal access to OCS gas reserves. We believe that it is very important for CMA members with plants on the Gulf Coast to have access to OCS reservoirs discovered on or after July 27, 1976. (NGPA, Section 102(d) category gas). CMA will also testify at a February 20 public hearing on this subject.

On January 28, FERC published a second notice on natural gas pipeline ratemaking, risks, and financial implications. The FERC Inquiry said that comments submitted should consider three objectives of regulation that are becoming increasingly important:

- Ratemaking policies should lead to prices that communicate clear market signals to all participants in the gas industry.
- The pricing system should embody strong incentives to minimize costs so as to provide services at the lowest reasonable cost consistent with reliable long-term service; and
- Customers should be given maximum flexibility in making choices among services and among suppliers of these services.

Energy Conservation Reporting. CMA also responded to DOE's request for public comments on the CE-189 Industrial Energy Conservation Reporting Program. CMA urged DOE to make no changes to the reporting rules or forms, or take any action such as conducting public hearings that would delay the 1984 survey. The CMA data collection effort is already underway. In our view, it would be counterproductive to do anything that might delay the 1984 DOE Report to Congress because most of the program benefits derive from early publication of the survey results.

Regarding future CE-189 reporting, CMA recommended that DOE relax the five-year recordkeeping requirements for work papers and background documents, and also that DOE determine if the reporting benefits justify the cost of continuing the program beyond 1990. We believe that the drive for energy efficiency improvements will continue as an integral part of corporate cost reduction strategy whether or not the CE-189 program is continued.

Energy Conservation Standards. Communication with the American Society of Heating, Refrigerating and Air-conditioning Engineers (ASHRAE) indicates that their ASHRAE 100.4P conservation standard for existing

industrial buildings should be adopted with language requested by CMA. This will protect the investment prerogatives of plant managers.

## K. Taxation

### 1. Congress

Tax Reform. Chairman Dan Rostenkowski (D-IL) has announced that the House Committee on Ways and Means will begin its tax hearings February 27, 1985. At that time the Committee will hear Treasury Secretary James A. Baker, III present the Administration's views on this subject. Although the Treasury Department has released far reaching and controversial proposals for major tax reform, the President has not declared to what extent the Administration will adopt those proposals in its tax message to the Congress. Public hearings will be announced later. CMA is preparing issue papers on the major Treasury Tax Reform proposals that would affect the chemical industry.

IRS Recordkeeping Regulations. Chairman Rostenkowski also announced that on March 5, 1985, the Committee will hold a public hearing on the recent IRS regulations on recordkeeping requirements to obtain deductions for business use of automobiles, meals, etc. The Committee will announce in the near future a series of hearings that will be held after March 5 on a number of provisions of the Internal Revenue Code that will expire in 1985, including the tax provisions of the Superfund legislation.

Committee Organization and Leadership. The makeup of the tax-writing committees will be significantly changed in the 99th Congress. Senator Bob Packwood (R-OR) will replace Senator Bob Dole (R-KS) as Chairman of the Senate Committee on Finance on the House Committee on Ways and Means, Congressman Charles B. Rangel (D-NY) will replace Congressman Fortney Stark (D-CA) as Chairman of the Subcommittee on Select Revenues which has jurisdiction over many tax matters. Congressman J. J. Pickle (D-TX) will replace Congressman Rangel as Chairman of the Committee's Subcommittee on Oversight. Five new members were elected to Ways and Means: Donnelly (D-MA), Coyne (D-PA), McGrath (R-NY), Gregg (R-NH), and Daub (R-NE).

## L. Plant Management and Design

### 1. Regulatory Development and Response

Standards. CMA approved the following standards as American National Standards: UL 4 (Armored Cable), UL 94 (Tests for Flammability of Plastics Materials in Devices and Appliances), UL 779 (Electrically Conductive Floorings), UL 877 (Circuit Breakers), and UL 1446 (Insulating Materials).

## Standards Related Activity

- o CMA nominated J.A. Stewart of FMC as a member of the Correlating Committee of the NFPA National Electrical Code Committee.
- o CMA voted for those nominated as officers of the ANSI Electrical and Electronics Standards Management Board.
- o CMA approved extension of four overage standards under jurisdiction of the ANSI Electrical and Electronics Standards Management Board, and two under jurisdiction of the ANSI Measurement and Automatic Control Standards Management Board.

## 1. State Legislative and Regulatory Activity

### 1. Superfund

New Jersey. A recent consultant's study has concluded that New Jersey may fall behind its schedule on waste site cleanup unless alternative funding sources are identified. Senators Dalton and Lesniak are expected to introduce legislation that would raise 70 million dollars a year. They propose to raise 34 million dollars from a general business tax and 26 million dollars by taxing oil storage facilities of a 15,000 gallon or higher capacity. Currently, the state taxes facilities that store 400,000 gallons or more of oil. The other 9 million dollars would be generated by a 20 dollar per ton waste generator/disposal tax. The State Spill Compensation Fund is currently funded at 11 million dollars per year.

New York. In New York, Governor Cuomo is seeking a multi-year 850 million dollar state Superfund program to clean up hazardous waste. The program would be funded initially by annual assessments on industries that produce or dispose of hazardous wastes. Under the governor's program a bond act of up to 700 million dollars would be submitted to the voters for their approval to fund the state's share of cleanup costs at these sites.

Washington. A draft study by the Washington State Department of Ecology has projected that between fiscal year 1985 and fiscal year 1995, the state could require approximately 550 million dollars to cleanup hazardous substance releases. The report calls for a Hazardous Substance Response Trust Fund which would be financed by a "pay-as-you-go" revenue system designed to generate 19.5 million dollars in fiscal year 1986, 50.5 million dollars in fiscal year 1987 and approximately 60 million dollars in successive years.

### 2. Public Compensation

A bill to repeal the onerous liability provisions of the Minnesota Superfund law is moving quickly through the legislature. Action on New Jersey public compensation proposals is now not likely until late spring.

The Massachusetts commission continues to be active with a report expected late by March.

### 3. Hazardous Waste Management and Regulation

EPA/State Permit Coordination. The Environmental Protection Agency's solid waste office and state agencies have begun work on a proposal that would allow the two to work simultaneously on hazardous waste treatment, storage and disposal permits sought under the Resource Conservation and Recovery Act (RCRA). The plan is seen as a short term measure to avoid duplication while states work for full delegation of their RCRA programs as a result of the 1984 amendments.

South Carolina. South Carolina Governor Richard W. Riley has cited a four-point hazardous waste policy that he intends to promote during the legislative session. His proposals include minimizing the use of landfill burial, increasing fees for hazardous waste burial, limiting future disposal sites 50,000 tons annually and changing ownership for new or expanding hazardous waste disposal sites to the states.

California. A new plan to help centralize and coordinate statewide management of toxics will be proposed to the legislature amid complaints that the system now in place fails to ensure cooperation among the various state agencies involved in toxics regulation. The plan could include creation of a new department or reorganization of the five agencies that now have toxics control programs.

### 4. Right-to-Know

State Legislation. During the 1985 state legislative sessions, right-to-know bills will continue to be a high priority. A principal focus of the right-to-know debate this year is on public access to chemical hazards information (community right-to-know). Through the first week of February, over 35 worker and/or community right-to-know bills have been introduced in 17 states. Draft legislation is being developed in ten additional states. Important right-to-know debates will occur in the following states this year: Texas, Louisiana, New Jersey, New York, California, Michigan, Minnesota, North Carolina, Oregon and Tennessee.

State Plan State Activity. States which have formally accepted the responsibility for occupational safety and health programs from federal OSHA are required to adopt chemical hazard communications plans covering manufacturers in SIC Codes 20-39. Of the 25 state plan states, twenty-one have adopted hazard communications programs, but only five have received final OSHA approval. Many of the proposed state plans establish programs that apply to both manufacturing and non-manufacturing employers. OSHA is expected to approve most of these plans.

As a result of the recent federal court ruling that pre-empted New Jersey's right-to-know law, as it applies to manufacturing employers, OSHA was requested to review the state's law to determine whether it is approvable as a state plan. New Jersey is not one of the 25 state plan

states. OSHA reported that the state law was deficient in several areas, and could not be approved as a state plan.

State Regulation. Twenty-one states now have right-to-know laws. Some states with older laws are revising the implementing regulations, and other states are adopting new regulations to implement more recent laws. States where regulatory activity may occur include: Pennsylvania, Maryland, Florida, Washington, Illinois and New Jersey.

#### 5. Groundwater

Connecticut. Responding to Governor William O'Neill's call for groundwater legislation, the state's General Assembly has introduced seven bills aimed at protecting groundwater supplies. One of these bills would extend the liability for the contamination of land and water to the manufacturer of the contaminant and any person who applies the contaminant.

In addition, the Connecticut Farm Bureau is developing a package to provide funding for alternative water supplies and well replacement to address the issue of well water contamination. The focus has been placed primarily on raising a 1.4 million dollar a year fund. One half million dollars will be raised from fees: 2,000 dollars a year for each restricted pesticide; 300 dollars from each distributor; and 100 dollars per applicator. A three and one-half percent sales tax on fertilizers and pesticides will provide the rest of the funding.

The Farm Bureau is also drafting legislation that would relieve farmers of liability for groundwater contamination caused by fertilizers and pesticides if the products were used according to the label and provided that there was no negligence on the part of the farmer.

#### 6. Transportation

Good Samaritan. Thirty-three states have passed good samaritan laws that cover hazardous materials in general. There are nine states that have not had any formal legislative activity in this area: Arizona, Idaho, Montana, Nevada, Ohio, Oregon, Utah, Wisconsin and New Jersey.

Colorado. A task force of Colorado state agency personnel has proposed a series of changes in Colorado law which would affect the transport of hazardous materials on highways or by rail. Additionally, the task force has proposed sweeping changes and additions to the Colorado "Hazardous Substantial Emergency Response Act" which was passed in 1983 and amended in 1984 by the legislature. Legislation to be introduced will probably address areas such as the authority for the highway department to designate (mandate and prohibit) routes for hazardous materials shipments on state highways as well as providing financial assistance to local response agencies for training and equipment through permit fees.

## 7. Toxic Air

During the first weeks of the state legislative sessions, no significant new state bills have been introduced on air toxics. Several New England states, including Massachusetts and Rhode Island, will probably consider acid rain legislation. Action in state air programs is closely linked to federal activity. States have broad latitude to address sources of air pollution that are not addressed by federal programs. More than thirty states are developing programs that regulate hazardous air pollutants for which the U.S. EPA has not set standards.

## 8. Chronic Health

The priority issue in the states relates to monitoring cancer, managing the risk of chemicals and the relationship between cancer and environmental pollution and workplace exposure to chemicals. State legislatures in California, Indiana and Texas are considering bills which establish cancer or tumor registries. A series of bills and joint and concurrent resolutions have been introduced in Texas that address cancer issues, information sharing and research. Many states are addressing chronic health issues through regulations as well. Programs relating to cancer and health issues are continuing to be developed in California, New York, Massachusetts and Louisiana.

## N. Specific Chemical Research and Advocacy

### 1. Advocacy Highlights

Benzene. Several unions and the Public Citizen Health Research Group have petitioned the D.C. Court of Appeals for a Writ of Mandamus to compel OSHA to proceed with benzene rulemaking on an expedited basis. The petition requests that the court direct OSHA to issue a proposed standard within 30 days of a court order and seeks a permanent standard within seven months following the proposal. The Panel intervened and challenged statements in the petition regarding the present hazard that benzene presents in the workplace and the brief period between proposal and Final Rule.

Butylated Hydroxytoluene. EPA published a draft Chemical Hazard Information Profile (CHIP) on BHT in November 1984. The Panel reviewed the draft and provided comments to EPA to make the CHIP scientifically accurate. EPA will decide in the near future on a course of action with respect to BHT.

Cresols. The Panel proposed an alternate testing program to EPA under Section 4 of The Toxic Substances Control Act. The Panel's program addresses, in a cost-effective manner, every health issue raised by EPA. After reviewing the CMA proposal, EPA has asked for additional information and will consider reopening the comment period if a satisfactory response is received from the Panel.

Fluorocarbons. A suit filed by the Natural Resources Defense Council against EPA on November 27, 1984, to force action on further regulation of CFCs was "dismissed without prejudice." The decision was based on a belief that the parties will be able to settle their disputes out of court. However, the suit may be reopened at any time. EPA is expected to respond to the court by February 15, 1985.

The United Nations Environment Programme (UNEP) Ad Hoc Working Group met again on January 21-25, 1985, in Geneva, to continue work on the Framework Convention and proposed protocols. The Convention is expected to be ready for signature in March 1985 at the UNEP Diplomatic Conference. The fate of the proposed non-mandatory protocols is still in doubt. A U.S. diplomatic negotiating team is scheduled to visit several European countries within the next two or three weeks to attempt a compromise protocol.

With the permission of EPA, the Rand Corporation has made available its draft document prepared for the Agency's Environmental Impact Statement (EIS). Members of the Panel are free to comment. The EIS is being prepared by the EPA and the Department of State to support the U.S. position at the upcoming UNEP Diplomatic Conference on the Framework Convention.

Hydroquinone/Quinone. EPA accepted the protocol for a teratology study of hydroquinone developed by the Panel. CMA will contract with Eastman Kodak to conduct the study.

Naphthenates. The member companies have received Data-Call-In notices from EPA on zinc and copper naphthenates. Currently, the Panel is preparing a response to these notices for submission to the Agency by the end of March. The Panel's response will include the extent and pattern of use, potential for human and environmental exposures, and the economic impact of EPA's proposed testing program on the industry segment.

Phthalate Esters. The Panel released two reports critical of the Consumer Product Safety Commission's report on the risk to children from exposure to DEHP in plastic products. The first report by Arthur D. Little, Inc. evaluated the exposure assessment studies conducted for CPSC by the Inhalation Toxicology Research Institute (ITRI). A. D. Little concluded that the ITRI studies had several flaws and were an inadequate basis for an exposure assessment. The second report, by Dr. Joseph Rodricks of Environ Corporation, evaluated the risk assessment. Rodricks stated that the CPSC risk assessment used procedures of questionable validity, contained statements not supported by the available literature and omitted important information. Dr. Rodricks estimated that the CPSC procedures overestimate the risk to humans by a factor of 100 to 100,000.

The CPSC convened a Chronic Hazard Advisory Panel (CHAP) to review the toxicological data on DEHP and determine the potential risk from its exposure to children. The CHAP was charged by the Commission to look at only toxicology and not exposure. The Panel wrote to the Commissioners and explained the scientific importance of evaluating both toxicity and exposure data in assessing risk. At the Panel's request, several other

trade associations wrote letters in support of this position. This issue was put on the Agenda for the next Commission meeting. Following a presentation by the Panel, the Commission voted unanimously to add exposure assessment to the scope of the CHAP's review.

Polychlorinated Biphenyls. The Panel, in conjunction with the Environmental Defense Fund and the Natural Resources Defense Council, developed a consensus proposal on a PCB spill clean up policy. The proposal is intended to apply to prospective spills and ensure that unreasonable risks are not posed to health or the environment. The proposal will be submitted to EPA as an alternative to the approach currently being considered by the Agency.

Titanium Dioxide. The National Cancer Institute (NCI) will undertake an epidemiologic study on workers exposed to titanium dioxide. At the request of NCI, representatives of the Panel and NCI will meet in the near future to discuss cooperation in the study.

## 2. Research Highlights

Butadiene. The Panel will initiate an independent third party audit of the National Toxicology Program's study of butadiene in mice. The audit will be conducted by Sharon Keener & Associates with an anticipated completion date of June 1985.

### III. DEPARTMENTAL PROGRAM NOTES

#### A. Office of the President

##### 1. International Affairs

Export of Hazardous Substances. IAG's UN Task Group has embarked on a project to draft a CMA position paper, which will propose an effective mechanism for managing this issue realistically. The aim is to combine features of the several current activities or requirements in (1) the UN General Assembly Resolution 39/225 on controlling harmful products; (2) UNEP's Provisional Notification Scheme for potentially harmful (or banned, severely restricted, or unapproved) products; (3) the WHO/UNEP/ILO sponsored "International Register of Potentially Toxic Chemicals"; (4) the OECD Recommendation on the exchange of information on the export of hazardous substances; and (5) the "White House Policy", publication of which, in its last reported (1982) form, was endorsed at the last CMA Board Meeting.

Training of LDC Workers and Government Officials. IAG is exploring the merit of the World Environment Council-U.S. State Department's AID Program in meeting UNEP proposals for such training. Twenty major CMA member companies are also members of WEC. AID's agreement with WEC provides for funding one such training program in the Middle East; experts from the U.S. steel industry have been provided by their employers to

serve as instructors. Substantial expansion of this agreement was recently confirmed in principle. IAG has invited WEC's Dr. W. Bassow and an AID representative to describe this program and future plans at the March 4, 1985, IAG meeting.

### 3. Government Relations Department

#### 1. State Affairs

State Affairs Committee. At its last meeting, the State Affairs Committee reviewed the draft guidelines on community right to know, which were prepared by the Joint Right-to-Know Task Group. The committee also discussed the development of a summary of state emergency response programs which is being prepared by the Hazardous Materials Transportation Task Group. The committee discussion focused on the positive aspects of developing a model emergency response bill to cover chemical releases and encouraging those states without an emergency response plan to introduce the model bill.

Hazardous Waste/Groundwater. Members of the Hazardous Waste/Groundwater Task Group are working with some of CMA's technical task groups to develop groundwater policy positions to be used in legislative and regulatory advocacy efforts at the state level. Issues to be included in these papers are standards, liability, funding and monitoring concerns.

The Hazardous Materials Transportation Task Group is working on the development of a summary of emergency response programs in the states. The group will inventory the states that have emergency response laws and evaluate the law to determine its strengths and weaknesses and whether it is adequate to cover chemical releases or spills. Meeting have also been held with the Federal Emergency Management Agency and the National Governors Association to review existing information sources.

Right-to-Know. In addition to monitoring the numerous right-to-know bills already introduced in the states, the Joint Right-to-Know Task Group has been concentrating on developing additional CMA policy on worker and community right-to-know. A new policy which supports expanding the federal OSHA standard in the states to cover all employees was approved by the CMA Board of Directors on January 21, along with a set of interim right-to-know guidelines on industry advocacy work in the states. The Joint Right-to-Know Task Group is currently developing an issues analysis/policy development relating to community right to know, and reviewing federal right-to-know legislation that was recently introduced.

Toxic Air. Although there is little actual legislation anticipated in this area in 1985, the Toxic Air Task Group will continue to monitor state programs which administratively regulate hazardous air pollutants. The task group is also reviewing existing CMA policy on the issue and considering recommendations for changes.

### C. Technical Department

New Focus of Activities. Much of the Technical Department's activity focused on post-Bhopal programs and their implementation. Press inquiries still consume much of the time as well as planning for the two chemical initiatives -- Community Awareness and Emergency Response (CAER) and the National Chemical Information Center.

CMA staff met with a business group in Charleston, West Virginia to discuss their post Bhopal plans. CMA did not endorse their proposal to build a National Chemical Policy Center in Charleston, but did agree to help them develop a community action plan that would be mutually beneficial to the chemical industry and residents of the Kanawha Valley.

### D. Office of General Counsel

Meetings for Member Company Counsel. The Office began its 1985 communications with member company counsel in a newly expanded format of meetings. Prior to each Executive Committee meeting, the General Counsel's Advisory Group, comprised of the most senior chemical operations counsel in each of the fourteen companies represented on the Executive Committee, meet to discuss significant matters affecting policy and management of the Association's legal affairs. Quarterly, the General Counsel's Current Issues Group, comprised of legal representatives of members of the Board of Directors, meet to discuss the status of the Association's most significant advocacy activities.

Improved In-House Resources. The Office significantly bolstered its in-house research capability by obtaining the computerized research facilities of Lexis-Nexis, accessing an extensive array of legal and print media source material.

### E. Communications

Bhopal Briefing. Sixty-five people attended an open communications committee briefing on the Bhopal accident. Many of those attending were company medical and plant management representatives from smaller member companies.

The meeting has been covered in the current issue of CMA News and is essentially a full report of CMA's response to Bhopal.

#### Other Areas

- o The Issues Briefing book is being updated for March distribution. A new section will contain messages on the Bhopal initiatives.
- o Nominations for the 1985 Catalyst Awards are expected to exceed last year's total of 160

- o The department is contributing organizational and communications support to the March 13 Grassroots Speakout program.
- o At the end of 1984 CMA's news services division had responded to a record high 9000 media inquiries. Circulation of CMA News had reached 6000 and ChemEcology was being distributed to 23,000.

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