

REPORT OF THE PRESIDENT

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ASSOCIATION PROGRAM AND ISSUE REPORT

I. ADVOCACY OVERVIEW

A. Congress

The level of activity on all issues from economic to trade to environmental has increased dramatically in the Congress. This has been complicated by the Democratically-controlled House seating the Democrat from Indiana in that controversial election.

The Republicans have said they will force the House to run by the rules which means lots of delays and time consuming votes on simple procedural matters. This has created a very partisan atmosphere in the House which means that on controversial issues it may be more difficult for bipartisan coalitions to form. These coalitions are needed to help craft solutions to controversial issues.

The Senate has finally passed a budget plan by a narrow one vote margin. The focus will now shift to the House where the White House will have a difficult job of selling its budget programs. Adding to the economic agenda of the Congress is the Administration's controversial tax simplification proposal. The President will send this to the Congress at the same time he explains his program to the American people.

B. Federal Regulatory Agencies

Regulatory Pressure Points. The current public and congressional focus on the budget, taxes and declining U.S. balance of trade have sensitized regulatory agencies to economic impact arguments, particularly those that warn of potential damage to the industry's international competitiveness. CMA comments and testimonies are now relying heavily on such support arguments.

The Environmental Protection Agency is sensitized to air emissions, groundwater contamination from any source, and emergency response plans. Lee Thomas, in speeches and actions, is also frequently refocusing public attention on the need to look at environmental protection actions as an integrated process that weighs all activities in air, water, groundwater, waste management and emergency response. EPA is working to build its scientific credibility by hiring qualified staff, focusing on effects rather than action and exposure rather than toxicity. The new AA for solid waste has a PhD in Chemical Engineering and has solid waste experience. Lee Thomas has stated that results not activity will be the measure of EPA. The Agency has recently published new studies documenting progress in reduction of air pollutants, and has published exposure assessment guidelines. Mr. Thomas has noted, however, that there is a significant and growing gap in perceptions of different population segments. For example, regulators, scientists, and regulated industries assess environmental contaminants very differently than Congress, the media, and the general population. The first group looks for exposure

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effects on health and environment. The second group more commonly sees any level of a contaminant as only an indicator of a "leak" that should be plugged.

Jack Moore is continuing his push for disclosure of information that some companies consider CBI and his push for high fines for any environmental law infraction.

Media and congressional pressure to replace the head of OSHA is building.

C. International

The Administration continues its efforts to open up markets to increase world trade. It is pursuing bilateral country-to-country trade agreements even as it is promoting a GATT, 90 nation negotiation to reduce tariff and non-tariff barriers. President Mitterand of France countered with monetary talk conditions that were disappointing to the U.S. It is still expected that the Administration will ask Congress this year for authority to start bargaining in 1986.

Meanwhile, bilateral agreements are being completed and others are in prospect. A U.S./Israel free trade agreement is now a reality. A U.S./Mexico trade agreement has been signed that assures Mexico a proof-of-injury requirement before the U.S. can apply countervailing duties against imports from Mexico. Mexico, in return, agreed to eliminate its subsidies. Further, the U.S. and Mexico have agreed to begin a negotiation to reduce tariff and non-tariff barriers to trade which could result in a broad scale free trade arrangement.

A free trade agreement is still in prospect between the U.S. and Canada, although it has been delayed by the change in governments. It has not been decided whether all chemicals would be negotiated or just petrochemicals.

Although no firm information is available, it is possible that Saudi Arabia has asked the U.S. for a free trade agreement. Saudi Arabia has formally requested one with the Common Market and logically would expect the same treatment as the U.S. has given Israel.

Representative Gibbons (D-FL) has held hearings in May on the "natural resources subsidy" issue. It provided such industries as cement, refining, lumber, ammonia and petrochemical industries the opportunity to relate the problems they are facing.

D. States

As current state legislative sessions near their end (all but eight states will adjourn by July) the concern over Bhopal was characterized by heightened interest in public access to hazards information. Thirty-five states have considered the community right-to-know issue. Four states have enacted right-to-know laws, another 10 to 12 could still pass laws

this session, and most will continue to pursue the issue in subsequent sessions.

The severity of possible state actions in the areas of groundwater and hazardous waste, is exemplified by the New Jersey proposal to protect water supplies. This bill would make it nearly impossible to site new hazardous waste landfills. New or increased state Superfunds continue to proliferate.

Financial matters continue to be at the top of the list of state concerns, especially with the emergence of poorly managed, state insured, savings institutions in Ohio and Maryland.

E. Media

The battle for Superfund has intensified in the media as various bills are brought forward in Congress. Two groups - John T. O'Conner's National Coalition Against Toxic Waste and Ralph Nader's Public Citizen - are on the road with press conferences around the nation.

Both groups are targeting the districts of Congressmen with influential seats during the debate. O'Conner is focusing on the administration and on EPA's slow cleanup record (he seeks to firmly establish the "only six sites cleaned up" myth). Nader's team specializes in attacking the character and intentions of Congressmen who don't agree with them.

Both groups take advantage of committed grassroots organizations to organize press events and depend on confrontive statements and charges to make themselves irresistible to the media.

Current media questions to CMA mainly concern Superfund reauthorization (including some from Germany which appears to be considering a Superfund also); chemical industry safety; insurance capacity shortages, right-to-know and Chemtrec.

CMA Superfund media tours have been conducted at nearly thirty newspapers on an eventual list of 60. At the same time API Superfund media tours (utilizing a full-time paid spokesman) have been accelerating.

F. Legal Affairs

II. ISSUES AND PROGRAM STATUS

A. SUPERFUND (CERCLA and Old Waste Site Cleanup)

1. Congressional Developments and Response

Senate Activity. The Senate Finance Committee will begin markup of the funding Provisions of Superfund on May 16. The Committee will

consider a funding level of \$7.5 billion over five years. There may be attempts to try to lower the recommended \$7.5 billion fund level. It appears the committee is seriously considering freezing the feedstock tax at current levels. The rest of the taxes will likely come from a broad-based tax that was introduced by Senators Bentsen (D-TX) & Wallop (R-WY), S.957. At this time, it is unclear if there will be waste end tax because of the controversy over calculating it on a dry or wet weight basis. Also, being considered as part of the \$7.5 billion package is interest, recovery and general revenues.

House Activity. Representative James Florio (D-NJ) will hold a press conference May 16 to introduce his Superfund reauthorization legislation. The details of Florio's proposal are not known except that he will probably propose a fund size of \$10.1 billion for the next five years. Florio is expected to try to markup his proposal sometime soon. It is possible that members of Florio's subcommittee may propose a compromise to Florio's proposal.

Representative Bob Roe's (D-NJ) Subcommittee on Water Resources of the Public Works & Transportation Committee may have an additional hearing on the right to know issue and the insurance industry concerns. CMA testified before the Roe subcommittee on May 1. It is anticipated that the Water Resources Subcommittee will develop its own comprehensive Superfund proposal.

The Ways & Means Committee held its Superfund hearings on May 9 and CMA presented its testimony. The Committee is not expected to schedule Superfund for consideration until after the Energy & Commerce and the Public Works & Transportation Committees completes their work.

CMA Activity. Over the last several weeks CEO's have devoted time to talking to members of the Senate & House on the Superfund issues.

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

2. Regulatory Development and Responses

National Priorities List Amendments. The Superfund Task Group developed comments on EPA's most recent amendments to the National Priorities List. CMA's comments expressed concern with the proposed inclusion of several "sites" that are not inactive and/or abandoned hazardous waste sites. CMA commented that it is imperative that the scope of Superfund not be allowed to expand beyond the original and appropriate intent of Superfund. Failure to limit the scope may greatly increase the cost of the Superfund program.

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3. Grassroots Activities

As part of CMA's Grassroots Program, 136 plant managers came to Washington on April 17 to visit with 18 Senators and 72 Congressmen. Most of the feedback indicates that the Congressmen and Senators were interested and appreciative of their constituents coming to Washington to discuss Superfund. In some cases the Congressman requested a continued communication with the plant manager until Superfund is reported from Committee.

Sixteen coalition meetings in key congressional districts have been organized to focus attention on the local impact of Superfund. These meetings will continue as long as Superfund is pending in the House Energy and Commerce, Public Works and Transportation, and Ways and Means Committees.

The following is a list of Congressmen visited by plant managers on April 17th. Those marked with an "*" are where coalitions have been formed.

Energy & Commerce Committee

DEMOCRATS

John Dingell - MI
 Tom Luken - OH
 Doug Walgren - PA
 * Al Swift - WA
 * Billy Tauzin - LA
 * Ron Wyden - OR
 * Ralph Hall - TX
 Dennis Eckart - OH
 * John Bryant - TX

REPUBLICANS

Jim Broyhill - NC
 • Ed Madigan - IL
 Carlos Moorhead - CA
 Matthew Rinaldo - NJ
 William Dannemeyer - CA
 * Tom Tauke - IA
 • Don Ritter - PA
 Dan Coats - IN
 Tom Bliley - VA
 • Jack Fields - TX
 Mike Oxley - OH
 Mike Bilirakis - FL

Public Works & Transportation

DEMOCRATS

Jim Howard - NJ
 * John Breaux - LA
 Nick Joe Rahall - WV
 Robert Borski - PA
 * Michael Andrews - TX
 Roy Rowland - GA
 * Robert Wise - WV
 Kenneth Gray - IL
 Peter Visclosky - IN

REPUBLICANS

Gene Synder - KY
 Arian Stangeland - MN
 E. Clay Shaw - FL
 Bob McEwen - OH
 Don Sundquist - TN
 Nancy Johnson - CT
 Sonny Callahan - AL

Ways & Means

DEMOCRATS

Dan Rostenkowski - IL
 Andy Jacobs - IN
 Harold Ford - TN
 Ed Jenkins - GA
 * Richard Gephardt - MO
 Frank Guarini - NJ
 * Marty Russo - IL
 Don Pease - OH
 Beryl Anthony - AR
 Ronnie Flippo - AL
 Barbara Kennelly - CT

REPUBLICANS

* John Duncan - TN
 Bill Archer - TX
 Bill Frenzel - MN
 Bill Gradison - OH
 * W. Hensen Moore - LA
 Carroll Campbell - SC

In the month of May through the completion of the legislative process on Superfund, CMA will request letters from constituents to Members of the House and the Senate. Those will be targeted for delivery to the Congressman or Senator just prior to marking-up the Superfund legislation in committee. Some selected additional Washington, D.C. visits may also be arranged.

The Grassroots Task Group is reviewing the entire program with the goal of improving all aspects of the program. A fall meeting of all grassroots managers is being planned to introduce next year's legislative issue.

3. Technical and Research Activities

Dry Weight Methodology. CMA technical experts have formalized a methodology to calculate the dry weight portion of hazardous wastes. The methodology has been presented to key Congressional staffers as part of CMA's Superfund advocacy. The methodology is a key element in CMA's advocacy of a dry weight waste disposal element in our Superfund funding proposal.

4. Communications

Almost half of the list of 60 cities targeted for visits on the media tour have been completed. The plan calls for this first phase to be completed by the end of June.

Radio and television newsfeeds are being distributed to the CMA 500 TV/2400 radio station network. Targeted information is also being distributed to important areas identified with Government Relations input. Special messages include economic impact of Superfund nationally and locally; funding sources and broadbased tax plan; cleanup progress, an interview with Lee Thomas; Clean Sites progress, and an interview with Chuck Powers.

Three media training sessions have been completed for the dozen member-company and staff experts who will participate in the media tour program.

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Also, an article was prepared for Chairman Edwin C. Holmer on Superfund issues and published in the June issue of Environmental Forum magazine.

CMA has coordinated with the API communications division, exchanging Superfund materials and providing technical assistance.

API is using the CMA satellite communication methodology, after consulting with our staff, for several interviews with API President Charlie DiBona. We have also shared media tour schedules to avoid duplication.

The Editorial Board Briefing package has been updated and distributed to almost 1,000 industry spokesmen.

The first issue of the CMA Editor's Service, a review of key issues written for chemical industry employees, was distributed to editors of internal publications at 179 member companies. Superfund was covered in detail.

B. Public Compensation

1. Congressional Developments and Response

Product Liability. On May 16, the Senate Commerce Committee is scheduled to mark up S.100, Senator Robert Kasten's product liability bill. Amendments to provide an alternative no-fault compensation mechanism probably will not be offered during the session. This defers the issue to future hearings. CMA is working with the Product Liability Alliance, a coalition of businesses and trade associations, to get a favorable bill through committee.

2. Communications

Media tour was made to the Baltimore Evening Sun to describe the UAREP report to its environmental reporter. A booklet containing the Executive Summary of document and an analysis by CMA has been printed.

Science and/or medical writers at approximately two-dozen newspapers have been targeted for interviews with members of CMA's UAREP Task Group.

C. Waste Handling and Disposal

1. Congressional Developments and Response

RCRA - Waste Handling. On April 29, Rep. John Dingell (D-MI) held a six-hour hearing on the enforcement of the Resource Conservation and Recovery Act groundwater monitoring requirements. Dingell, Chairman of the Energy and Commerce Committee and its Oversight and Investigations Subcommittee, reviewed the results of his subcommittee's survey regarding groundwater monitoring wells. The results of the survey indicate that only "40% of well detection systems are adequate." The focus of the hearing was on EPA enforcement as well as the problems resulting from

interim status requirements. CMA's groundwater and RCRA task groups are currently reviewing the survey results.

2. Regulatory Developments and Response

Land Disposal Ban Decision Models. The RCRA Regulations Task Group developed comments on EPA's proposed models to be used as part of the Agency's land disposal ban regulatory decision-making process. CMA's comments proposed several modifications that would incorporate site specific data in the application of the model. The models, if modified, will make regulatory ban decisions based on more real world data rather than general laboratory information that is not representative of chemical industry operations.

3. Technical and Research Activities

Liner Permeability Studies. The Environmental Management Committee has received one final report and a draft final report from the University of Texas on clay liner permeability. The results of the studies indicate that dilute organic chemical wastes cause no significant increase in permeability of clay liners (i.e., compacted and treated clay liners). These studies will be useful as part of CMA's advocacy before EPA on the Agency's land disposal bans of various categories of hazardous wastes.

D. Groundwater

1. Congressional Developments and Response

Safe Drinking Water/Groundwater. In the Senate, S.124, introduced by Senator David Durenberger (R-MN), amends the Safe Drinking Water Act (SDWA). The bill focuses on setting drinking water standards and regulating public water systems. It does not include major groundwater protection provisions. CMA supports S.124, because most of our concerns have been satisfactorily addressed CMA particularly supports Senator Durenberger's decision not to add groundwater protection provisions to S.124.

Senator Patrick Moynihan (D-NY) has introduced S.24, which creates a sole source aquifer protection program incorporating concepts included in last year's House-passed SDWA Amendments. He has indicated he will not pursue S.24 because he supports the program in S.124.

A single hearing on S.124 was held March 21, and CMA submitted a written statement for the hearing record. The bill was reported by the Environment & Public Works Committee by voice vote on May 2. CMA does not object to the critical aquifer protection program and the modified standard-setting approach as reported out of Committee. The bill is expected to come to the Senate floor in May.

Senator Durenberger will hold at least five days of hearings on broader groundwater protection issues, before introducing any new legislation. Groundwater hearings are expected to begin in late May, possibly beginning with field hearings held in Florida and Long Island, N.Y. CMA will request to testify at these Senate groundwater hearings.

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On the House side, Rep. Ed Madigan (R-IL) has introduced SDWA Amendments, H.R.1650, which are identical to last year's House-passed bill. Separate sole source aquifer legislation has been introduced again by Rep. Tom Foley (D-WA) and Rep. Tom Downey (D-NY) which is similar to the Moynihan bill. However, Foley & Downey's concerns are addressed in the sole source aquifer program in H.R.1650.

CMA testified on H.R.1650 at the May 1 hearing. CMA's principal concerns were with the so-called "rational basis" language for setting standards and with the two groundwater protection provisions.

The Subcommittee on Health and the Environment reported H.R. 1650 by voice vote on May 2. Two amendments were offered and passed, a filtration amendment (not a CMA issue) and a Madigan amendment to reduce the funding levels for the groundwater protection programs by 60%. This amendment in part reflects the concerns with the scope of these programs expressed in our advocacy effort and strengthens our hand for the expected House-Senate conference. The Energy and Commerce Committee mark-up will be held in mid-May 14, and they will report H.R.1650 to the House.

The Government Relations Committee Safe Drinking Water/Groundwater Task Group will continue to meet actively on these issues and to work actively with CMA technical and legal experts as well as Congressional staff members.

2. Technical and Research Activities

Groundwater "Talking" Papers. The Environmental Management Committee approved "talking papers" on groundwater standards, and groundwater monitoring. The papers will be used by the State Affairs Committee to assist state CIC's in addressing state groundwater legislative initiatives and in developing CMA testimony on anticipated Federal legislative activities. The papers primarily consolidate in one place existing CMA policy although CMA does establish a new position on groundwater quality -- manage groundwater at existing quality or at a quality which supports current or future beneficial uses of the resource.

CCA Groundwater Roundtable. CMA representatives will participate in a groundwater roundtable sponsored by the Council of Chemical Associations. The purpose of the conference is to provide a forum for the discussion of critical groundwater issues and to promote a better understanding of technical, scientific, and policy questions relating to groundwater.

Government Control of Chemical Production/Innovation (TSCA)

1. International Regulation

Drs. E.J. Sowinski (Uniroyal) and B. Broecker (Hoechst AG), co-chairmen of the IAG/CEFIC Joint Work Group on Chronic Hazards, reported to EPA's Science Advisory Board on April 23, 1985, the existence, objectives, and progress of this activity. This information report was well received. It was evident that the existence and significance of US/EEC differences

in the criteria and classifications of carcinogens, mutagens, and teratogens had not been appreciated.

The Hazard Assessment Task Group of the Health and Safety Committee is preparing comments on the first draft documents produced by the Joint Work Group at its April 2-3 meeting in Brussels. These comments and others prepared by similar CEFIC groups will be considered at the June 25-26 meeting to be held at CMA. When these draft proposals are revised and agreed, they will be reviewed formally by CMA/SOCMA, CCPA, and CEFIC for concurrence. Advocacy to the respective governments will follow.

2. Litigation and Related Legal Activities

Dibenzofurans/Dioxins. The CMA Program Panel on Dibenzofurans/Dioxins is preparing to intervene on the side of EPA in a lawsuit brought against the Agency by the Environmental Defense Fund and the National Wildlife Federation. At issue is the adequacy of EPA's response to an EDF/NWF petition for regulation of these compounds under section 6 of TSCA. CMA and EPA believe that more information should be collected first to determine the extent of contamination of products and the environment with these compounds. At the same time, the CMA panel has kept open channels of communication with the environmental groups to see if some mutually acceptable program of research and/or regulation might be negotiated, such as was done successfully with the rule on inadvertent generation of PCBs.

F. International Trade/International Competition

1. Congressional Developments and Response

U.S./Israel Free Trade Agreement. The Trade and Tariff Act of 1984 gives specific authority to the Administration to negotiate an across-the-board free trade agreement with the government of Israel. Negotiations on this matter have been completed. Committees of both Houses of Congress have held consultation mark-ups in which some changes were made to the agreement. The Israeli government has approved the revised agreement. The Administration has sent the final bill which would create the free trade agreement to Capitol Hill, but it has not yet been introduced. Once introduced, the bill will be non-amendable and must be passed within 60 days.

Through CMA trade contacts, CMA alerted its members of activities on this issue, including a USITC investigation and Congressional hearings. The bromine industry is the segment most likely to be affected by the agreement. Bromine and other products found by the USITC to be import sensitive will have up to ten years before duties will be removed. The legislation to create the agreement will require the USITC to conduct a study after five years to determine if any industries or products have suffered harm as a result of the agreement. The legislation will also require the President to acquire Congressional approval before reducing tariffs on those products deemed import sensitive by the USITC studies.

U.S./Canada Free Trade Agreement. In addition to providing specific authority for a U.S./Israel free trade agreement, the Trade and Tariff Act

of 1984 allows the Administration, upon proper notice to the Congress, to enter into negotiations leading to similar bilateral agreements with other nations. In the case of Canada, no such formal request for negotiations has occurred, but much groundwork has been laid. Internal Canadian government studies have recommended that duty-free agreements would be desirable for certain product sectors, including some petrochemicals.

In meetings with the Canadian Chemical Producers Association, CMA was provided with a list of 27 petrochemicals on which the Canadian chemical industry would like to see duties eliminated. Several U.S. government agencies have been conducting economic impact studies on the effects caused by a partial or total reduction in U.S./Canadian chemical tariffs. The U.S. International Trade Commission study is due to be released very soon.

CMA's International Trade Committee is developing a proposed position on the issue. It is now in the final draft stage, having been reviewed both by the committee and by outside counsel. The proposed position emphasizes the need for negotiations to include all chemicals rather than specific products or subsectors. It also voices concern over certain Canadian non-tariff barriers such as the National Energy Policy and the Foreign Investment Review Act. Both of these policies are currently undergoing revisions.

U.S./Mexico Bilateral Agreement. On April 23, the United States and Mexico signed a bilateral trade agreement. Under the terms of the agreement, the Mexican government has agreed to bring its export practices in conformance with those required by the Subsidies Code of the General Agreements on Trade and Tariffs (GATT). In turn, the United States has agreed to require U.S. companies seeking relief from Mexican imports under the countervailing duty laws to prove that they have been injured. Because Mexico is not a GATT signatory, the injury test has not been required in the past. Mexico's status as a developing nation and being granted most-favored-nation status does not change.

In announcing the agreement, both countries revealed that a much broader agreement covering all trade and investment practices was desired. Negotiations leading to such an accord will begin soon.

The CMA and member companies have to some degree been involved in the various stages of the agreement for over two years. CMA's International Trade Committee is concerned, however, that the Administration has not adequately consulted with the Industry Sector Advisory system during the formulation of policy.

Possible U.S./Saudi Arabia Petrochemical Treaty. With the passage of a U.S./Israel free trade agreement likely before the end of the summer, it is possible that a similar agreement will be sought by Saudi Arabia. That country already requested greater access to the European Economic Community petrochemical market. The Saudi government is of the opinion that a 1933 Marine Treaty with the U.S. guarantees them the same treatment which Israel is about to receive. The Trade and Tariff Act of 1984, however, specifically mentions that the U.S./Israel free trade agreement is not affected by any other such treaties.

CMA's International Trade Committee will monitor this possible development closely.

G. Occupational Safety and Health

1. Congressional Developments and Response

Worker Right to Know. Rep. Joseph Gaydos' (D-PA) Health and Safety Subcommittee held several hearings on worker safety and right-to-know last month, at which various labor unions submitted testimony critical of the OSHA hazard communication standard.

CMA testified May 8. DuPont's Dr. Bruce Karrh and Monsanto's Tom Evans presented the CMA CAER and NCRIC initiatives, supported the OSHA standard as a strong, comprehensive and practical approach to hazard communication, and described their companies product management/ stewardship programs as examples of how the chemical industry ensures the safety of its workers, customers and consumers. This May 8 testimony was well received and responsive to Mr. Gaydos' primary interest in learning how chemical manufacturing companies pass on hazards information to customers and downstream users of their products.

Community Right-to-Know (RTK). In the House we anticipate that a RTK amendment will be offered to the Superfund legislation when it goes to markup in the Energy and Commerce Committee and Public Works Committee. In the Senate, a RTK amendment has already been approved by the Environment and Public Works Committee when it reported its Superfund reauthorization (S.51) in March.

Members of Congress are feeling political pressure from their constituents on the need to enact federal RTK legislation. Although no schedule has been announced for RTK legislation we anticipate rapid movement. CMA staff and member company Washington representatives have already begun to meet with key House and Senate staff to help them understand the issues and to begin discussing constructive alternatives in the event RTK amendments are seen as a political reality. The issues being discussed are making information available to the community, emergency response approaches and defensible criteria for estimated inventory/emissions data as a better alternative to the "mass balance" data reporting requirements in the Florio bill (H.R.965) and the Lautenberg amendment (S.51) which are a concern to CMA members.

2. Technical and Research Activities

Process Safety Management Workshop. A workshop on process safety management, attended by 175 representatives of CMA companies, was highly successful. Attendees discussed process hazard identification, assessment and control. They received a report describing methods used for managing process safety. The workshop was held May 7 and 8 in the Washington D.C. area. The program will be presented again this November in New Orleans.

Lammot du Pont Safety Award. The Dow Chemical Company, Midland, Michigan, ARCO Chemical Company, Philadelphia, and Dynamit Nobel, Kay

Fries, Chemicals Division, Stony Point, New York, will be honored at the CMA annual meeting for their outstanding safety records.

Lamot du Pont Safety Awards are given annually to CMA member companies which have shown the greatest percentage reduction in injury and illness frequency rates. This is the 34th year for the awards, which have three categories; companies working more than 20 million exposure hours annually, companies working 2 to 20 million exposure hours and companies working two million exposure hours or less annually.

CMA also awards certificates to second place winners in each category. The runner-up for the largest company category is E.I. du Pont de Nemours & Company, Velsicol Chemical Corporation in the intermediate company category and Chemplex Company in the smallest company category

3. Litigation and Related Legal Activities

Hearing Conservation. On April 3, 1985, the Court of Appeals for the Fourth Circuit agreed to rehear a ruling by a three-judge panel of the court striking down the OSHA hearing conservation amendment to the noise exposure standard. The rehearing is scheduled for the June court session.

The earlier ruling held that the amendment makes no distinction between occupational and non-occupational noise. The Department of Labor's Solicitor's Office has said the decision to rehear the case "erases" the earlier ruling striking down the hearing conservation amendment, and puts the amendment legally back into effect.

4. Communications

Board Chairman Edwin C. Holmer announced the initiation of the CAER and NCRIC programs at a March press conference. Approximately 50 print and broadcast news organizations were represented at the press conference, which was held at the National Press Club.

Three television and two radio news features on the CAER and NCRIC programs also were distributed to CMA's network of 400 television and 2,490 radio stations.

Arrangements also were made for Geraldine Cox, Vice President and Technical Director, to appear on the MacNeil/Lehrer News Hour (PBS) to discuss the CAER and NCRIC programs and related health and safety issues. Dr. Cox appeared on the program with Rep. Henry Waxman (D-CA).

The publication and initial distribution of the CAER Workbook has been completed to coordinators. A videotape on CAER has been completed for the use of plant managers. The training seminar in June will be videotaped for use in training.

Representatives from member communications organizations (Monsanto and Shell) will join the teams putting on the training seminars for the CAER program that are now being conducted at six sites around the country.

H. Clean Air

1. Congressional Developments and Response

Dingell Questions Through CMA. CMA has begun the steps necessary to respond to Rep. John Dingell's (D-MI) letter requesting information on monitoring, detection and emergency response relative to air emissions from chemical plants. In an April 22 letter, CMA provided to Dingell information about the progress of CAER and NCRIC, as requested. Regarding Dingell's other questions, we explained that CMA will need approximately nine weeks in order to select three areas of the country and to collect responses from member companies located in those areas. Dingell's letter, which CMA received on April 9, had set out 45 days for CMA to fully reply.

A CMA technical working group under the Environmental Management Committee comprised of company representatives recommended three study areas, and four alternates. On May 8, the CMA Executive Committee approved Baton Rouge, New Orleans; Philadelphia, Wilmington/South New Jersey; and, Buffalo, Niagara Falls.

The CMA recommendations/survey have been discussed with Congressman Dingell's staff and have received their endorsement. The surveys were mailed to the corporate offices of companies having facilities in the three survey areas the week of May 13. Workshops to explain and answer questions on the survey were held on May 24 and 28 in New Orleans and Philadelphia respectively. The company responses will be compiled by CMA for submittal to Congressman Dingell. In addition, CMA will analyze the responses and prepare a report on the survey responses for submittal to Congressman Dingell.

Hazardous Air Pollutant Bill. House Democrats soon will introduce a major, new Section 112 of the Clean Air Act bill which Rep. James Broyhill (R-NC) briefly outlined in his Chemical Forum speech on May 8. The bill is expected to statutorily list over 100 substances as hazardous air pollutants. Within three years, EPA would be required to regulate those substances to a degree providing ample margin of safety or lowest achievable emission rates. Broyhill advised that CMA communicate to House members, especially back in their districts, that science and risk considerations are essential in regulating hazardous air pollutants.

2. Regulatory Developments and Response

EPA and GAO Air Toxics Meetings. CMA representatives met with GAO representatives to discuss the various investigations they have underway concerning EPA's hazardous air pollutants program. We briefed GAO on our plans for responding to Congressman Dingell's survey request and committed to share the responses with them. CMA representatives also met with EPA's Assistant Administrator for Air, and his staff, to discuss our views on EPA's air toxics program. We briefed EPA on Congressman Dingell's request and agreed to share the information we received with OAQPS personnel.

NAPCTAC Industrial Boilers Testimony. CMA testified before EPA's National Air Pollution Control Technical Advisory Committee on EPA's proposed regulatory strategy for establishing new source performance

standards for industrial boilers. CMA's comments highlighted several technical deficiencies in the support materials that the proposed NSPS will be based on. CMA's objective is to obtain NSPS industrial boilers standards that are technically justifiable and cost-effective.

3. Technical and Research Activities

Emergency Air Dispersion Models Evaluation. The EMC's Air Dispersion Modeling Task Group has undertaken a technical evaluation of existing emergency air dispersion models. The study will evaluate and test the technical adequacy of existing models that have been used in emergency air releases. The objective of the study is to make available to CMA's membership an analysis of all existing models so that they can be aware of the strengths and weaknesses of various models if they are going to be used for emergency preparedness and response operations. The study is being closely coordinated with CMA's Distribution Division.

I. Clean Water

1. Congressional Developments and Response

House Water Resources Subcommittee of the Public Works and Transportation Committee. On April 30, CMA testimony was delivered by Mr. Gordon E. Wood of Olin Corporation. Wood chairs the CMA Government Relations Committee Clean Water Act Task Group and is a former counsel to the Subcommittee. CMA's positions on compliance deadlines, penalties and permits were emphasized, compared to H.R.8 and the EPA bill, H.R.2090. The Subcommittee is expected to mark-up clean water amendments in late May.

Senate Clean Water Act Amendments. On May 7, the Environment and Public Works Committee approved a bill for Senate floor action. The bill, whose number has not been filed as yet, contains some improvements that CMA sought over the proposals originally considered. Improvements included extension of the compliance deadline from July 1, 1987, until July 1, 1988; some protection against citizen suits when administrative penalties are assessed; also, affirmative defense and clearer language for "midnight dumpers" offense under criminal penalties. The Fundamental Different Factors (FDF) variance, recently upheld by the Supreme Court, was maintained with some procedural limitations specified. The NPDES permit term resulted in a compromise of 5 years as in present law.

CMA had testified on the clean water amendments on March 28, and held a meeting with several Senate staff on April 18.

2. Regulatory Developments and Response

Stormwater Monitoring. The Water Permits Task Group has developed a format for participating companies to report the effluent monitored in their stormwater discharges. The participating companies agreed to participate in a CMA/EPA analytical study of stormwater discharges "representative of various categories of stormwater discharges." The analytical data will be used by EPA to establish priorities for permitting industrial categories' stormwater effluents.

3. Technical and Research Activities

Environmental Update. The EMC's semi-annual update was held on May 21-22, 1985, in Houston, Texas. One hundred forty persons attended the meeting including member company representatives of TCC and LCA. The Update covered water, air, solid waste, and media-media issues. The Update featured presentations by EPA on their Underground Storage Tank program and Texas' air program activities.

4. Litigation and Related Legal Activities

NPDES Citizens Suits. CMA is continuing to monitor developments in the citizen suit program undertaken by environmental groups. These groups have filed enforcement actions seeking civil penalties against industrial dischargers who have allegedly violated permit limits. Two important citizen suit decisions have recently been issued by the Court of Appeals. On April 1, the Fifth Circuit ruled in Hamker v. Diamond Shamrock Corp. that a citizen suit cannot be brought unless the discharger is alleged to be in violation at the time of the complaint filed. On April 24, the Third Circuit ruled in Student Public Interest Research Group of New Jersey v. Fritzsche, Dodge & Alcott that an EPA administrative enforcement action did not bar a subsequent citizen suit on the same violation.

J. Chemical Product Distribution

1. Congressional Developments and Response.

Hazardous Materials Transportation. The reauthorization of Superfund legislation and increased congressional attention regarding hazardous substance and safety issues has intensified discussions pertaining to the transport of hazardous materials and emergency response. Representative James J. Florio (D-NJ-1) has introduced, as part of a chemical manufacturing safety act, 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. Senator Frank R. Lautenberg (D-NJ) has offered legislation that requires contingency planning and an inventory of hazardous materials at plant sites and distribution points. It is expected that he will also propose a chemical safety bill that would include provisions pertaining to hazardous materials transportation and emergency response. His proposal may be offered on the Senate floor as an amendment to Superfund legislation.

Hazardous materials transportation issues are expected to be included in hearings on environmental matters. Advocacy by state and local groups and results of congressionally mandated studies will stimulate the hearing process. An interim report will be issued by the Office of Technology Assessment this summer and the Department of Transportation has created a hazardous materials advisory board that will also provide input for Congressional deliberations.

CMA has developed a proactive approach to improved emergency response and first responder training programs. Implementation of "CHEMNET" is

underway at CMA and the services of CHEMTREC have been expanded. CMA continues to participate in a coalition with public and private sector groups in seeking a consensus approach to federal/state/local uniformity of hazardous materials transportation regulations. Discussions also continue with the Department of Transportation regarding initiatives to insure more efficient and safe transportation of hazardous materials.

Rail Competition. Bills have been introduced by Senators Russell D. Long (D- LA) and Mark Andrews (R-ND) and Representatives W. J. "Billy" Tauzin (D- LA-3) and Nick J. Rahall (D-WA-4) that would curb high railroad rates and protect captive shippers. Legislation that would set standards for rail rates and determining when rail carriers have market dominance has also been introduced by Senator Wendell H. Ford (D-KY) and Representative Rahall. An additional measure has been offered in both Judiciary Committees by Senator Dennis DeConcini (D-AZ) and Representative John D. Seiberling (D-OH-14) regarding antitrust implications of railroad rate practice.

Differing views exists 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). Hearings have not been scheduled, but activity is expected to intensify when the ICC completes a rulemaking presently underway that addresses rail competition. The bills introduced have not received the support of the Administration.

CMA continues to work to maintain and enhance rail-to-rail competition and insure proper implementation of existing law. Negotiations with the railroads have resulted in some agreement with regard to pro-competitive access issues. The agreement between CMA and the American Association of Railroads (AAR) has resulted in an ICC proposed rulemaking and would basically obviate the need for legislation on matters addressed. Discussions with congressional leaders and ad hoc groups continue as legislative measures are proposed.

Conrail. Transportation Secretary Elizabeth Dole has selected Norfolk Southern Corporation as the successful bidder to purchase Consolidated Rail Corporation (Conrail). Legislation has been introduced that would support the Administration's view, but other bills have been offered that would open up the entire bidding process, provide for a public stock offering or funnel profits from Conrail to Amtrak to help defray deficits.

Concern has been expressed during hearings that provisions must be included in any sale agreement to assure competition. A Department of Justice report regarding the antitrust implications of a sale to Norfolk Southern would require some divestiture and has been made a part of the proposed sale terms. A Department of Treasury report on the tax implications and a study by the Joint Committee on Taxation has also entered into the debate.

The Senate Commerce, Science and Transportation Committee reported the Administration's bill that would allow DOT to sell Conrail to Norfolk Southern Corporation for \$1.2 billion. Smooth sailing on the Senate floor is not expected. Hearings continue in the Senate Judiciary Committee and

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amendments will be proposed. Opponents of the Conrail sale have offered a resolution that would require Congress to delay action on the issue until the Justice Department further reviews divestitures and trackage agreements that Norfolk Southern is completing to meet antitrust concerns.

Hearings before the House Energy and Commerce Committee Surface Transportation Subcommittee are also underway. Chairman James J. Florio (D-NJ-1) has requested that the House Budget Committee study the revenue aspects, indicating that a Conrail sale could provide tax shelter benefits and contribute to the federal deficit. DOT has agreed to limit use of Conrail tax deductions. Representative Florio also called on the Interstate Commerce Commission (ICC) to look at the affect of a sale on diversion of traffic. A formal ICC probe could delay, if not kill, the sale of Conrail to Norfolk Southern as the end of this year is the informal deadline by Norfolk Southern for consummation. The House Ways and Means Committee and the House Judiciary Committee are examining implications of the sale and are reviewing legislation.

The shipping community is stressing the need for assured rail competition in the Northeast Corridor, but does not have a united viewpoint regarding the disposition of Conrail. The competitive concerns of CMA have been expressed to all Conrail bidders, the Department of Transportation and key Congressional Members.

2. Regulatory Development and Response

Hazard Classification. HM-196 CMA submitted comments on a Notice of Proposed Rulemaking (NPR) Packaging and Placarding Requirements for Liquids Toxic by Inhalation (Docket No. HM-196). CMA supported the basic concept of the NPR, which is to establish a higher level of safety for the transportation of liquids identified as having inhalation hazards. A list of materials that were identified as possibly meeting the criteria for regulation under the NPR was included with the comments. Some industry concerns that CMA addressed included:

- o The need to identify materials that meet the criteria for regulation in the Hazardous Materials table Section 172.101;
- o Exemptions for small and limited quantities since they would not pose a risk to transportation safety;
- o Better definition of the resource materials to be consulted for LC50 data; and
- o The cumbersome approval process for packaging requirements in the proposed rule.

CMA offered to convene a task group, composed of representatives from all affected industries, to work with DOT to establish new generic packaging specifications for materials affected by the rule. This coordinated approach would eliminate the need for individual companies to go through the proposed packaging approval procedure.

Tank Car Compensation. CMA, other rail car providers, and the railroads have reached an agreement, pending member approval, on the appropriate levels of compensation for rail car usage. Other key aspects of the agreement include form and duration, and enforceability. The 1985 payout under the agreement to the tank car providers would be \$554 million. Under the issue of enforceability, the parties agreed that the ICC would automatically investigate shipper protests of rail carrier "capping" efforts.

Intermodal Operations. The Department of Transportation has published a proposal pertaining to the use of cargo tanks and portable tanks for the transportation of hazardous materials in TOFC and COFC service. Current requirements prohibit this type of operation.

The Distribution Committee's Rail Equipment Work Group is analyzing the safety impact of such operations and plans to develop comments for submission to DOT by June 27, 1985.

Lubricating Oil Additives. An Ad Hoc Work Group on the Classification of Lubricating Oil Additives has been formed to develop CMA's position on the International Maritime Organization's proposed Marine Pollution Requirements. Of primary concern is the overlap of the application of the requirements to oil additives under Annex I and Annex II. There are inconsistencies between their requirements that make it impossible to comply with both. CMA's comments will recommend that these materials be classified under Annex II. CMA's Special Programs will be contracted to undertake the classification project.

Market Dominance Rulemaking. Before a shipper may challenge a rail rate as being unreasonably high, he must show that the railroad charging the rate has "market dominance" -- i.e. there is an absence of effective competition for the traffic. The ICC has initiated a rulemaking to revise the current market dominance guidelines. The proposed rule is based on an agreement on guidelines reached by the railroads, the American Paper Institute and the National Industrial Transportation League. CMA will file comments on May 17 in which we will argue that the proposed rule is not sufficiently quantifiable or predictable. CMA will offer an alternative market share approach that is based on the Herfindahl index currently used in merger cases. CMA will alternatively suggest specific changes to the proposed rule that would enable chemical shippers to more easily obtain rate relief if they do not, in fact, have competitive alternatives.

Ocean Economics. CMA will submit comments to the Federal Maritime Commission on May 17 regarding restrictions that conferences of carriers are placing on individual carriers that wish to exercise their statutory right of independent action to offer a lower rate or better service than that which the conference is willing to offer. CMA comments will support proposed FMC rules that would make such restrictions or independent action unlawful.

Argentina/Brazil Cargo Reservation Laws. CMA has submitted evidence in the FMC investigation showing that U.S. chemical exporters are paying ocean rates that on chemical products are 19 to 757 percent higher than our foreign competitors pay to ship their competing products to Brazilian

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and Argentine markets. CMA information shows that these high raters have resulted in lost U.S. sales, and some production being shifted from the U.S. to foreign plants. CMA also established numerous service delays and inefficiencies. Accordingly, CMA urges the FMC to take sanctions that would restore competitive ocean service in the trades.

Cargo Liability Bill. CMA recently submitted comments to the House Merchant Marine and Fisheries Committee regarding changes to the ocean cargo liability laws. CMA generally supported the Committee's current draft, primarily because it clearly states that the carrier liability limit of about \$500 per package means per packages inside of a 40-foot container, rather than the whole container itself being the package. CMA also suggested specific changes to the Committee draft bill to improve the laws from a shipper's standpoint.

3. Rates and Compensation

Independent Action. CMA submitted comments to the Federal Maritime Commission (FMC) on May 17 regarding restrictions that conferences of carriers are placing on individual carriers that wish to exercise their statutory right of independent action to offer a lower rate or better service than that which the conference is willing to offer. CMA comments support proposed FMC rules that would make such restrictions an independent action unlawful.

Rate Setting and Cargo Allocations for Bulk Chemicals. A major issue has arisen as to whether carriers of bulk chemicals may collectively set rates and allocate markets. CMA's position is that the Shipping Act of 1984 was not intended to extend antitrust immunity to collective activity relating to bulk chemical shipments. CMA is advocating this position before the FMC in the first investigation into whether two chemical bulk parcel tanker operators should be given antitrust immunity. CMA filed comments on May 17 regarding the more general issues of whether the FMC should accept tariffs from carriers of bulk chemicals and whether the FMC should immunize their activities. CMA is in the process of looking into a legislative amendment that would correct this problem.

Argentina/Brazil Cargo Reservation Laws. The FMC is investigating whether the Argentine and Brazilian cargo reservation laws are creating unfavorable conditions for U.S. Shipping, and if so, what sanctions should be imposed against the Argentine and Brazilian carriers. CMA has submitted evidence in the investigation that U.S. chemical exporters are paying ocean rates on chemical products that are 19 to 757 percent higher than our foreign competitors pay to ship their competing products to Brazilian and Argentine markets. CMA shows that these high rates have resulted in lost U.S. sales, and some production being shifted from the U.S. to foreign plants. CMA also established numerous service delays and inefficiencies. Accordingly, CMA urged the FMC to take sanctions that would restore competitive ocean service in the trades.

4. Litigation and Related Legal Activities

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C. Energy and Petrochemical Feedstocks

1. Congressional Developments and Response

Energy Taxes. The imposition of energy taxes and import fees or surcharges are being discussed as a means to reduce the Federal deficit or to generate revenue. Proposals that could be considered during budget deliberations 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.

Hearings in both the Senate and House have been held on how the Treasury's proposed tax simplification plan with regard to how energy taxes will affect the domestic oil and gas industry. The House Government Operations Environment, Energy and Natural Resources Subcommittee also held hearings on the problems caused by imports of petroleum products, reduced capacity utilization and national security implications. Chairman Mike Synar (D-OK-2) received testimony from a coalition of independent refiners, independent marketers, some major oil companies and a petrochemical company. Similar testimony was received by Senator Lloyd Bentsen (D-TX) during hearings in the Joint Economic Committee. Hearings on the domestic impact of petroleum imports are also scheduled for June 4 in the Senate Energy and Natural Resources Subcommittee on Energy Regulation Conservation. Legislation that would impose a \$10 per barrel fee on imported oil and refined petroleum products has been introduced by Representative James H. Weaver (D-OR-4). A bill has also been offered by Representative Anthony C. Beilenson (D-CA-23) that would phase-in a 50 cent a gallon excise tax on gasoline. Senator Lowell P. Weicker (R-CT) has offered a proposal that would phase-in a 30 cent increase in the gasoline excise tax. No immediate action is expected on the bills introduced.

The economic impact of various energy taxes on the chemical industry continues to be monitored and reviewed at CMA. Key Administration officials have been contacted concerning the impact of energy taxes on the chemical industry. CMA advocacy and liaison with other industry groups is oriented in **opposition** to the imposition of new or additional energy taxes.

Emergency Preparedness. Titles I and II of the Energy Policy and Conservation Act of 1975 (EPCA) that provide authority for the Strategic Petroleum Reserve (SPR) and U.S. participation in the International Energy Agency (IEA) are scheduled to expire June 30. Senate and House leaders are attempting to prevent the EPCA reauthorization bill from becoming a vehicle for any energy or emergency planning proposals. Senate Energy and Natural Resources Committee Chairman James A. McClure (R-ID) has indicated support for a simple extension of EPCA, rather than enact any additional energy emergency legislation. A bill that would extend SPR

and IEA authority until June 30, 1989, has been reported in the House Fossil and Synthetic Fuels Subcommittee and sent to the Energy and Commerce Committee. Hearings concerning just the control and distribution of the SPR and its fill rate do provide a forum for debate over energy emergency preparedness issues. Planning proposals including price and allocation control authority will probably not be considered. Amendments are expected that would provide state block grants or assistance to those disadvantaged by a petroleum emergency.

Senator McClure remains committed to the overall 750-million-barrel goal set for the SPR, but appears to support the Administration's goal of a one-year moratorium on filling and expanding the SPR. It has been reported by the Senate Budget Committee that such a SPR moratorium would save the federal government about \$1.9-billion next fiscal year. SPR extension has consequently become a part of budget cutting deliberations. Representative Philip R. Sharp (D-IN-2) has proposed cutting the SPR fill rate by more than two-thirds as a compromise to the Administration's plan of a one-year moratorium on all SPR oil purchases. The Administration also reportedly supports a simulation of an SPR drawdown, as opposed to an actual physical test release of oil from storage facilities. A measure to conduct a test drawdown of the SPR and have a fill rate of 50,000 barrels per day was marked up in the House Energy and Commerce Fossil and Synthetic Fuels Subcommittee. The House Appropriations Subcommittee on Interior has likewise agreed to a fill rate of 50,000 barrels per day. Neither full committee has scheduled action.

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 supports early use of the SPR with an auction system for distribution in the event of an energy crisis.

Natural Gas. Legislation has been introduced on selected natural gas issues and draft language is being circulated but the debate over natural gas issues has primarily moved to the regulatory arena where the Federal Energy Regulatory Commission (FERC) rule-making process has intensified. Repeal of gas incremental pricing provisions of the Natural Gas Policy Act (NGPA) and Fuel Use Act (FUA) restrictions are the focus of some Congressional attention. Transportation of gas or contract carriage and equal access to supply will also be a part of any natural gas legislative debate.

Representatives Jim Slattery (D-KS-22) and Dan Coates (R-IN-4) have introduced a bill that would repeal the natural gas demand restraints under the FUA and NGPA. The proposal is supported by the American Gas Association. Legislation will be introduced by Senator Don Nickles (R-OK) that will similarly repeal incremental pricing and fuel use restraints, but further proposes to decontrol the price of all gas under renegotiated or expiring gas purchase contracts. Senate oversight hearings on the status of the natural gas industry are scheduled for June 18. A bill that could also stimulate Senate activity has been introduced by Senator Bill Bradley (D-NJ) that would require mandatory contract carriage by pipeline companies. The possibility also exists that House Energy and Commerce Committee Chairman John Dingell (D-MI-16) will hold oversight hearings after May 15 on natural gas issues, including matters presently before the FERC.

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CMA supports the Administration'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 provision is an essential part of any natural gas legislative or regulatory reform measure. Access to gas supply from the OCS is also a matter of importance to the chemical industry, as the largest industrial natural gas consumer. Legislative proposals affecting the status of natural gas issues will be carefully monitored by CMA. The CMA view of a free market for natural gas is being presented at FERC at every available opportunity.

2. Regulatory Developments and Response

FERC Notice of Inquiry, Docket Nos. RM81-19 and RM81-29. The FERC requested public comment on their proposal for a six-month extension of the Interstate Pipeline Blanket Certificates for Routine Transactions and Sales and Transportation by Interstate Pipelines and Distributors under Order 234-B. In communications to the FERC, CMA indicated strong support for the program because it promotes competition.

CMA believes that the Order No. 234-B program should be extended indefinitely, or for two years at a minimum to provide an adequate time frame for buyers and sellers to work out new agreements.

However, on May 10, the Washington, D.C. Circuit Court of Appeals vacated the blanket certificate transportation program, and threatened to do the same for all FERC special marketing programs. The Court said it was vacating FERC Orders 319 and 234-B to the extent that they allow transportation of direct-sale gas to fuel-switchable end users without requiring pipelines to furnish the same service to local distribution companies and captive customers on non-discriminatory terms.

EIA Form 846, Proposed Manufacturing Energy Consumption Survey. The Energy Information Administration (EIA) extended the public comment deadline, and also rescheduled the public hearing for May 20 in Washington, D.C. John LeKashman, Vice President, Operations Services, Stauffer Chemical Company, will testify on behalf of CMA.

In our view, the EIA has not justified the need for detailed information on plant specific energy and feedstock use. Also, we believe that there is inadequate provision to protect confidentiality.

CMA 1984 Survey for the DOE CE-189 Program. Over 90% of the 1984 energy conservation survey forms have been returned to CMA. The preliminary results, based on the forms received to date, indicate that the chemical industry continues to make substantial improvement in energy efficiency.

It appears that in 1984, the chemical industry used about 34% less energy per unit of output compared with 1972. On June 1, CMA reports the 1984 survey results to DOE.

L. Taxation

Congress. It is anticipated that President Reagan will deliver his program for major tax legislation to the Congress in mid-May after he returns from the European Economic Summit Meeting. During the President's absence, Senate votes on key elements of the Senate/Republican Administration budget compromise cast doubt about its future. Senator Packwood, Chairman of the Senate Finance Committee, held tax reform hearings on May 9; more will be held. In the House, Ways and Means Committee Chairman Dan Rostenkowski (D-IL) is "clearing the decks" of all other business so the committee can begin tax reform hearings later this month.

Business concerns now center on reports that the Administration program would provide additional individual income tax deductions that would reduce revenues significantly. Since the Administration and the Chairmen of the Congressional tax-writing committees this year have expressed a common goal to report only tax measures that are "revenue neutral" or without any additional direct cost to the Treasury, the Administration's commitment to individual tax reductions could mean a significant increase in overall business taxes.

Additional pressures appeared for business tax increases during the President's absence. After refusing to cut Social Security benefits and to approve the provisions for Defense spending as provided in the compromise with the Administration, the Senate approved in principle the enactment of a new minimum tax provision to make-up the lost budget revenues. Subsequently, the Congressional Budget Office issued a report which concluded that corporate tax receipts are now providing the lowest percentage of total revenues in many years.

Tax legislation this year could have a severe impact on the chemical and other capital intensive businesses. For example, one of the 1984 Treasury Department recommendations for tax reform is to repeal the investment tax credit. This year the chemical industry will invest over \$14 billion in new plants and equipment. Over 90 percent of that investment may be eligible for the investment tax credit. Thus, the repeal of the investment tax credit would increase the tax bill of the chemical industry more than \$1.26 billion each year.

To be prepared for major tax increase legislation, the Tax Policy Committee has prepared position papers on several major tax concerns of the chemical industry. These include:

- o Capital Cost Recovery, ITC and Corporate Tax Rate Reductions
- o Per Country Limitation for Foreign Tax Credits
- o Change in Source Rules for Foreign Tax Credits
- o Research and Development Expenditures
- o Section 936, Possessions Tax Credit (Puerto Rico)
- o Employee Benefits

Pressure to divide the business community on tax issues will be very high this year. CMA is coordinating its tax efforts with allied trade associations to maintain a united business position before the Congress.

Plant Management and Design

Standards

- o CMA submitted ballots on over 3000 proposals for revision of the 1984 National Electrical Code.
- o CMA approved the following as American National Standards: UL 698 (Industrial Control Equipment for Use in Hazardous Locations); UL 719 (Nonmetallic Sheathed Cables); and NEMA TC2, TC5, TC6, TC7, TC8, TC9, TC10, and TC13 (Plastic Electrical Conduit, Duct, Tubing, Fittings).
- o CMA disapproved ASME MFC-3M (Fluid Flow Measurement) as an American National Standard.
- o CMA appealed approval of UL 943 (Ground Fault Circuit Interrupters) as an American National Standard.

Codes

- o CMA approved API 510 (Pressure Vessel Inspection Code), and the National Board Inspection Code, as American National Standards.

Other

- o CMA disapproved disbandment of the ANSI Measurement and Automatic Control Standards Board.

Patents and Protection of Technology

1. Congress

Process Patent Legislation. On April 22, 1985, CMA sent a letter to Intellectual Property Owners (IPO), requesting that CMA's name be added to the list IPO is compiling of organizations supporting process patent legislation. CMA has for some time supported the enactment of legislation which would give the owner of a process patented in the U.S. the right to bring a suit for patent infringement against a party who imports a product that is manufactured abroad by using the process. An ad hoc IPO group is spear-heading advocacy activities on this subject.

State Legislative and Regulatory Activity

1. Superfund

New York. Governor Cuomo of New York and the Senate and Assembly leadership have reached an agreement on a compromise Superfund bill which will increase the current \$10 million Superfund program by \$30 million

annually. Hazardous waste program fees as well as hazardous waste transporter fees have been doubled in the agreement. Waste-end tax activity has also increased with land disposal rates increasing from \$12 to \$27 per ton. Rates for incineration both on and off-site did not change.

In addition, each facility which operates one or more landfills will be required to pay \$200,000 instead of \$100,000. Rates for facilities that treat, store or dispose of hazardous waste in surface impoundments have increased from \$12,000-\$24,000.

New Jersey. In New Jersey, Governor Kean's Superfund proposal would create a \$200 million trust fund comprised of 150 million in bonds and the rest from general revenues. Senate Majority Leader and gubernatorial candidate John Russo proposes to accelerate the Spill Fund tax rates to their maximum.

Senators Dalton and Lesniak have proposed a five-year program combining public and industry taxes. A \$200 million bond issue and \$50 million from the general fund constitutes the public financing. Industry taxes proposed include a new tax on the disposal of hazardous waste, doubling of the existing Spill Fund taxes and a new surcharge on the business and income taxes paid by eight industries. None of these proposals consider federal funds, voluntary cleanup or recovery of costs from responsible parties.

Texas. The Texas state Superfund legislation introduced by Representative Schlueter has been drastically altered after lengthy negotiations with representatives of Texas chemical companies. The original version of the legislation would have created a new state fund from permit and disposal fees for processing and storage of wastes. Fees would be set for disposal sites as well. Nearly half that money would have funded a \$35 million hazardous waste research center at Lamar University. The Lamar proposal was rejected because it was the only research that would have been funded by a direct tax on an industry according to Schlueter, the bill's sponsor. Representative Schlueter admits his original bill was designed to "get the attention of industry" and initiate negotiations.

2. Public Compensation

In the final days of the legislative session, it appears that Minnesota is moving towards a compromise bill on the issues of Superfund liability and public compensation. In return for repealing the retroactive joint and several liability provisions and causation changes for personal injury compensation in the 1983 Superfund law, an administrative compensation fund, financed entirely with state general fund money will be created. One way or the other, this issue should be resolved by early June.

In other states, activity remained relatively quiet in May. Bills with the potential to move this year have been introduced in New Jersey, Massachusetts, California, and New York.

3. Hazardous Waste

New Jersey. According to officials of the state Department of Environmental Protection, creating new hazardous waste landfills in New Jersey would be nearly impossible if the state Assembly passes a bill it is now considering which prohibits landfills from being developed within 2,000 yards of a major potable water supply. Besides major aquifers, the bill would include all public wells serving 500 people or more.

Officials say New Jersey's already stringent groundwater protection measures provide ample opportunity to prevent landfills from contaminating environmentally sensitive aquifers. The bill could cause a shortage of hazardous waste disposal capacity. Five aquifers would prevent landfill development in the northern half of the state and various public water supply sources would eliminate the siting of new landfills in eleven counties in the southern part of the state.

Delaware. Delaware legislators are reassessing the state agency charged with implementing existing hazardous waste regulations in response to increasing public sentiment that the agency does not have enough regulations. A joint resolution which has passed the House Natural Resources Committee, requires officials from the Department of Natural Resources to review hazardous waste regulations before the General Assembly prior to the end of the legislative session. The original resolution would have established a moratorium on issuance of all new hazardous waste permits for the state's treatment, storage and disposal facilities.

4. Right-to-Know

State Legislation. Through the first week in May over 100 right-to-know bills were considered in 35 states. These bills address workplace hazard communication, community access to chemical information, emergency response planning and chemical inventory and emission reporting. Three new comprehensive right-to-know laws have been enacted in Montana, North Dakota and West Virginia.

In three additional states, Maryland, Vermont and Washington, bills have passed the legislative process, and are awaiting action by the governors of those states.

Montana. Legislation was signed into law on April 30. This law is a comprehensive worker/community right-to-know statute with public access to chemical hazards information through county clerks' offices.

North Dakota. A community information and emergency response law was signed in March. Material Safety Data Sheets (MSDS) must be provided to the state fire marshal and the local fire departments.

West Virginia. A comprehensive worker/community right-to-know law was signed on May 1. It expands the OSHA hazard communication standard to cover all employers. It also contains emergency response provisions and requires the consolidation and submission of all environmental emissions reports.

Maryland. The Governor intends to sign two right-to-know bills before the end of May. S.B. 336 amends the existing worker right-to-know law, and brings several provisions into conformance with the federal standard. H.B. 594 establishes a state toxic substance information and education office and provides for public access to chemical information.

Vermont. A comprehensive worker/community right-to-know bill has passed both houses of the legislature. It is based on the federal standard and requires hazardous chemical information to be reported to local fire departments. The governor is likely to sign the bill into law.

Washington. A comprehensive right-to-know law was passed by the legislature in 1984 and was substantially vetoed by the Governor. A new bill with MSDS requirements similar to the federal standard has passed the legislature this year. In addition, the legislature has passed a community right-to-know bill which requires the state to establish a toxic substance information and education office. Both bills will be signed by the governor in the near future.

In Alabama, Louisiana, Oregon and Tennessee, right-to-know legislation has passed one house in the legislature. All of these bills are supported by industry and will likely be enacted this year. Other states which are seriously considering right-to-know bills include: California, Florida, Illinois, Minnesota, Missouri, North Carolina, Ohio and Texas.

OSHA State Plans. OSHA has released a draft of its field directive which will be used to guide field inspectors in the enforcement of the hazard communication standard. The final directive is expected by the end of the summer. CMA has sent comments to OSHA on the draft.

5. Groundwater

Nebraska. Nebraska's Department of Environmental Control plans to introduce comprehensive draft legislation in 1986 for groundwater protection which covers nitrates, pesticides, fertilizers and other pollutants.

But an impatient state legislator, Senator Chris Beutter has already introduced a measure that would require state and local action to lower the amount of nitrate pollution in the state's groundwater if the nitrate level exceeds a set standard.

Under the proposed bill, the Department would have to investigate any area where nitrate water levels exceeded 14 parts per million. Local governments would also be required to develop a plan to control nitrates in the water supplies.

The DEC recently released its groundwater quality protection plan. The strategy proposes that the state undertake a comprehensive review and analysis of the potential long-term health effects of nitrate-nitrogen in drinking water and develop regional groundwater monitoring programs for nitrate contamination.

Idaho. With a grant from EPA, Idaho has begun strengthening its groundwater quality management plan. The department plans to update the groundwater management plan, improve interagency coordination of groundwater protection activities and create new water quality standards specifically for groundwater. Additional projects include development of underground storage tank regulations, land treatment permit regulations, a funding strategy to provide immediate short-term relief from contaminated groundwater and the establishment of uniform techniques to assure quality groundwater sampling.

6. Transportation

A package of bills regulating transportation of hazardous materials in New York were recently reported to the Senate floor. The package includes a measure creating a 14-member hazardous materials transportation board. The board would have the power to prescribe regulations and standards for the transportation of hazardous materials, set specific routes for vehicles carrying hazardous materials and establish standards for packaging, loading and marking such materials.

Members of the New York Business Council are currently reviewing the measures and will be submitting proposed amendments to the bills.

P. Specific Chemical Research and Advocacy

1. Advocacy Highlights

Allyl Chloride. The Panel has completed all its objectives and has decided to disband.

Arsenic. The report by Dr. Philip E. Enterline of the University of Pittsburgh, "Mortality Study of Tacoma Smelter Workers," was recently submitted to government agencies. The report concludes that arsenic exposure was related to an increased risk of respiratory cancer in Tacoma Smelter workers in every category of exposure. Thus, this report does not support the earlier preliminary finding that 500 ug/m³ of arsenic in air is a threshold for the causation of respiratory cancer. However, the Panel had some concerns about the exposure classifications in this report. The Panel's reservations in accepting the conclusion were transmitted to the various government agencies in a cover letter that accompanied the report.

Cumene. The Cumene Panel met with EPA staff to review proposed TSCA 4(a) testing requirements for cumene announced at a public course-setting meeting on April 22, 1985. EPA proposed the following testing: Health Effects- pharmacokinetics, subchronic (90-day) study, mutagenicity, oncogenicity and chronic toxicity, developmental toxicity, and reproductive effects. Environmental - Acute and chronic toxicity testing on estuarine fish and invertebrates.

EPA's testing proposal is based primarily on a finding that cumene may reasonably be expected to enter the environment in substantial quantities and that there may be significant exposure. The Panel is preparing to comment on the test proposal.

Glycol Ethers. The Glycol Ethers Panel sponsored an organizational meeting of the manufacturers, distributors and industrial users of ethylene glycol monomethyl ether, ethylene glycol monoethyl ether and their acetates. EPA is expected to issue a Notice of Proposed Rule which would ban consumer and trade uses of these glycol ethers and refer industrial uses to OSHA with recommendations for regulatory restrictions. The May 2 meeting was held to heighten awareness among industry segments imparted by the forthcoming EPA regulation, review the Panel's goals and activities, and encourage organization and involvement by users in the regulatory proceedings.

Methylenedianiline. The Panel met with a staff representative from OSHA to discuss the Agency's interest in negotiating an occupational standard for MDA.

Rubber Additives. EPA announced at its public course-setting meeting on mercaptobenzothiozole (MBT) that the Agency is expanding its Section 4 rulemaking initiatives on MBT-based compounds. EPA plans to propose extensive health and environmental effects testing on MBT, mercaptobenzothiozole disulfide (MBTS) and three sulphenamides; the proposed rule is scheduled for November 1985.

Titanium Dioxide. Because of the increased interest on the part of the National Cancer Institute, the Panel met for a third time with NCI staff to discuss cooperative efforts to undertake a feasibility epidemiology study. The Institute appears to be well into undertaking the feasibility study in which Panel member companies will cooperate.

Toluenediamine. The Panel filed a letter with EPA in response to the Agency's request for information on methemoglobin formation from exposure to TDAs.

III. DEPARTMENTAL PROGRAM NOTES

A. Office of the President

1. International Affairs

Training in Developing Countries. The rapid and extensive distribution of the "CAER" Program Handbook, extending to overseas plants of some multinational CMA member companies, adds a new and very positive factor to this issue. For the first time a common level of understanding is available to improve in-plant and adjacent public safety. Copies have been distributed to overseas chemical industry trade associations and to other private national and international groups with relevant programs. What remain to be identified on a systematic basis are the most cost-effective combinations of "CAER" and other safety programs in specific locations, especially in developing countries.

2. Association Liaison

At its May 22 meeting, the Council of Chemical Associations addressed a range of issues of mutual concern to the group of allied chemical industries. These items included Superfund, right-to-know, CAER and NCRIC, environmental impairment liability insurance and the Dingell Survey on emission and emergency response capabilities.

3. Member Services

The ad hoc CIC work group is continuing its analysis of the various state chemical industry organizations. The group will be making a report to the Executive Committee and Board of Directors in September on the status, programs and capabilities of the CIC's, together with some recommendations for CMA, member company and CIC action.

During April and May, a number of the state organizations held their annual or semiannual meetings. Recent programs in New Jersey, Ohio, Pennsylvania, Florida, and Louisiana were particularly successful. CMA staff have been meeting with CIC representatives in a number of states concerning CIC involvement in the CAER program's implementation.

B. Government Relations Department

State Affairs Committee. Members of the State Affairs Committee are currently developing the agenda for the committee's annual planning conference in June. Representatives of some of the chemical industry councils will also be represented at the meeting. Topics for discussion will include priority state issues for 1985-86, improving communications with the CIC's and the development of a more effective advocacy program.

Hazardous Waste/Groundwater. Members of the hazardous waste/groundwater task group participated in a recent groundwater conference sponsored by the National Governor's Association. State agency representatives from Connecticut, Florida and Wisconsin discussed the adoption of a state groundwater classification system, the development of water quality standards and the enactment of comprehensive legislation. The task group will also be participating in an upcoming one day round table conference relating to groundwater which is being sponsored by the Council of Chemical Associations.

Hazardous Materials Transportation Task Group. The Hazardous Materials Advisory Council recently held their annual conference in Washington, D.C. Members of the task group participated in discussions on federal-state-local roles in hazardous materials transportation and industry initiatives in the emergency response area.

C. Office of General Counsel

Toxic Tort Information Meetings. At the suggestion of the General Counsel's Advisory Group, the Office of General Counsel will host quarterly meetings for in-house counsel of CMA member companies who are interested in exchanging information related to the entire field of toxic

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torts litigation. The first meeting of this new group is scheduled for May 22, 1985.

D. Communications

The Communications Committee completed its annual planning retreat in early May. Presentations focussed on risk communication and grassroots and CIC advocacy.

The committee decided to establish a task group to devote additional attention to longer range communications objectives. The goal is to present the board with an advocacy-related long range communication plan.

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