

CLEAN AIR ACT REAUTHORIZATION
Toxic Air Pollutants Issues

BACKGROUND

Events over the last eight years point strongly to the Congressional intent to complete an air toxics legislative package as part of any Clean Air Act amendments in the 101st Congress.

Each of the last four Congresses has considered hazardous/air toxics bills with increasing levels of prescription directed at ensuring EPA action. While no air bills were passed, late in the second session of the 99th Congress (1986), the Superfund Amendments and Reauthorization Act (SARA) Right-To-Know provisions were enacted. The 100th Congress saw a five-title Clean Air bill, S. 1894, reported by the Senate Committee. Title V of S. 1894 included technology and health-based standards for control of toxic air pollutants as well as a section on catastrophic release.

In 1987, the CMA Board of Directors approved the toxic air pollutants--process emissions position. This position recommended that CMA oppose toxic air pollutants legislation. If viable legislation was proposed, the Board approved a sequential, two-step, position. First, the position preferred limited modification to Section 112; second, it allowed CMA to support major modification of Section 112 following specific principles.

In 1988, EPA reversed its earlier position and called for legislative action on toxic air pollutants. EPA's legislative concepts proposed a strong technology approach, followed by residual risk considerations for the regulation of approximately 200 airborne chemicals. The EPA proposal was introduced as H.R. 5556 by Congressman Dingell two days before adjournment.

CURRENT STATUS

The general sense of certain interest groups in and out of government is that now is the time for additional toxic air pollutants legislation. Congressman Dingell and others have indicated that air toxics will be debated during the 101st Congress. Congressman Dingell urged the Bush Administration to introduce a comprehensive air bill. In the spring of 1989, information and data from the Right-to-Know legislation become available for national public scrutiny. While we can only estimate the magnitude of the SARA Title III inventory release numbers, we anticipate increasing public pressure to amend the Clean Air Act. Legislative prospects are also enhanced by the election of Senator George Mitchell, the key author of S. 1894, as Senate Majority Leader.

CMA has taken aggressive steps to address toxic air pollutants releases. In January 1986, CMA introduced its Air Quality Policy encouraging individual chemical companies to: 1) develop emission inventories of toxic air pollutants; 2) assess the impact of these releases on employees and the surrounding community; 3) reduce releases as needed to safeguard public

health and the environment; and 4) communicate the results to the appropriate community and government agencies. The passage of the Superfund Amendments and Reauthorization Act (SARA) in 1986 provided further impetus for the first and last of these four elements. While the CMA policy has successfully fulfilled its intended purpose (to improve air quality and the public perception of the chemical industry) such voluntary action will not forestall legislative activity aimed at mandating added controls of airborne emissions of toxic substances.

RECOMMENDATIONS

In light of the above discussion, EMC recommends that CMA support the development of appropriate legislation to facilitate EPA's addressing emissions of toxic air pollutants in an effective and timely manner. An early CMA decision approving the recommended position will provide sufficient time to establish meaningful position documentation, formulate strategy, and build coalitions.

COORDINATION WITH OTHER GROUPS

During the 1988 debate, CMA actively worked with members of the petrochemical industries to discuss the impacts of proposed legislation on industry and options to address toxic air pollutant releases. These efforts will continue.

As an active participant in the Clean Air Working Group (CAWG), CMA will work with other major industry groups to build a broad industry coalition on toxic air pollutants. Within CAWG, CMA has the industry lead for toxic air pollutants. While some industries in CAWG are concerned about air toxics, they are particularly sensitive to other clean air issues including acid rain and nonattainment. As a comprehensive bill is debated CMA will work to ensure consideration of our views.

ACTION REQUESTED

Approval of the recommendations.

CMA

EC 1/17/88

BD 1/18/88

CMA 076370

CLEAN AIR ACT REAUTHORIZATION
Concepts Supporting Toxic Air Pollutants Position

TALKING POINTS

The recommended Clean Air Act position builds on the previous Board-approved positions.

The position statement allows CMA to:

- o Support EPA's statement that Section 112 is so difficult to administer that another mechanism to regulate toxic air pollutants is needed.
- o Advocate for some reasonable changes to the Clean Air Act.

Goals of appropriate legislative amendments to the Clean Air Act should:

- o Be consistent with the goals of the existing Clean Air Act, which provides for the protection of health and welfare while maintaining the nation's productive capacity;
- o Ensure that all significant sources of toxic air pollutants (point, area and mobile) have at least a reasonable level of control;
- o Provide that all significant emissions of toxic air pollutants are subject to regulations under the Clean Air Act and that due consideration be given to multimedia effects of such control requirements.

Toxic air pollutant legislation should:

- o Recognize that while most substances can be toxic under some conditions, the significance of such toxicity depends on characteristics of the substance, concentration in ambient air, and exposure. Therefore, EPA should consider these factors to determine which substances are subject to regulation. There should not be a binding statutory list of substances that must be regulated.
- o Require EPA to establish regulations for sources that are significant emitters of toxic air pollutants consistent with the need to protect health and welfare while maintaining the nation's productive capacity.
- o Specify that standards shall initially be technology-based and should differentiate between new and existing sources. Standards should be applicable after promulgation and allow sources to meet reasonable compliance schedules.

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- o Provide for implementation and enforcement of national control requirements by states.
- o Encourage voluntary emission reductions, provide recognition and credit for existing control practices, and avoid penalizing "good performing" sources.
- o Allow EPA, after technology-based controls are in place and functioning, to determine whether an unreasonable "residual" risk remains and provide that such unreasonable risk be reduced. Such determinations should be based upon a scientifically sound methodology which recognizes that residual risk concerns are different for carcinogens and noncarcinogens.
- o Provide EPA, states, and sources adequate time to develop and implement these requirements, consistent with availability of technology and consistent with the legislative goals.

CMA

EC 1/17/89

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