

Report to CMA Board of Directors  
G.F. Fort, Monsanto Company  
Chairman, CMA State Affairs Committee  
September 8, 1985

Good morning -- I am Garth Fort from Monsanto. My purpose today is to report on the State Affairs Committee, which has the responsibility of serving as the "watchdog for the chemical industry interest at the state level."

This committee was formed four years ago, so we're in the same position as a politician completing his first term in office and running for re-election on the record.

In the case of this committee, that record is a good one.....so far.

The stakes have been high at the state level.

Congress passes major environmental legislation -- the Clean Water Act, Clean Air Act, Resource Conservation and Recovery Act, Safe Drinking Water Act, and "Superfund." But all of these are "minimum requirements," and the states are permitted -- and even encouraged -- to go farther.

Daniel Bean, writing for the "Policy Studies Journal," underscored the rising importance of state governments. He said, "They are no longer regarded as horse and buggy governments, as they were in the 1960's and are coming once again to be viewed as laboratories of innovation and democracy."

The Conservation Foundation has pointed out that environmentalists of a decade ago generally sought federal solutions to pollution problems. They now look frequently to the states, recognizing that Washington has no monopoly on "environmental virtue."

Examples are numerous. California regulations on hazardous wastes were copied in last year's RCRA reauthorization. California laws passed by Sher and Katz in 1983 and 1984 were models for the present federal regulations of pits, ponds and lagoons. Very recently, the League of Women Voters initiated a program on "Household Hazardous Wastes" focused at the local level. The effort quickly spawned twenty bills this year at the state level, and promises to attract the attention of U.S. EPA, if not Congress. Even today, New Jersey state legislators are directly affecting the congressional debate on "Community Right-to-Know and Catastrophe Prevention."

Four years ago, as CMA responded to the increasing importance of state issues, they recognized the challenges:

- The political playing field is geographically spread over 50 states.
- There are thousands of key players -- seventy-five hundred legislators alone, with staffers and executive agency personnel numbering thousands more.
- There are 250,000 bills introduced each year which could affect our business.
- Timing for political action at the state level is measured in days, not months or years, as is frequently the case in Congress.

To meet these challenges CMA developed a unique program that is built on sound managerial and political principles:

1. Set priorities on issues to make the most of limited resources.
2. Get involved as early as possible in the political process to maximize effectiveness.
3. Develop position statements and supporting arguments before the issue surfaces, to keep up with the fast track political pace.
4. Emphasize local involvement for early alert and political effectiveness. Those on the scene have the best chance of knowing what's developing and politicians listen best to those who elect them.

To implement this program, a network of state chemical industry councils and trade associations was chosen to be the cornerstone of CMA's field marketing force to sell our positions on priority issues. But it was clear that the network needed lots of support and direction.

As Jim Murray reported last year, activities were planned to cultivate that network by making CMA a focal point of information

gathered from the collective national resources of our industry. Many of these activities are well underway, and have truly turned CMA into a "Center of Excellence" for state issues. Member company personnel and state trade associations are routinely turning to CMA for advice and guidance. Other industry trade associations like American Petroleum Institute and the National Agricultural Chemical Association are contacting CMA on mutually important state issues. Associations of elected officials like National Governor's Association, National Conference of State Legislators, Council of State Governments and even the National Association of Towns and Townships are turning to CMA for input on policy positions, agenda ideas and speakers. These indications of success are gratifying, but most importantly, the "CMA approach" has clearly helped produce "bottom line results" for member companies.

Our system was severely tested this year and it worked. Let's look at some specific results:

By June of last year, community right-to-know was targeted for priority coverage for the then upcoming 1985 legislative session. Drawing on two years of experience with this issue at both the state and federal levels, CMA staff efficiently pulled together a wealth of information-- position papers with back-up arguments, copies of all previous state laws and regulations, and copies of testimony that had been given before Congress and at the state level. In addition, CMA State Affairs Group held regional information seminars on the subject to educate members of the CIC's network.

When Bhopal hit in December, the CMA State Affairs organization as a whole was well prepared for the unprecedented flood of state bills that were promptly dumped into the legislative hopper. When the dust settled this year over 150 bills on this subject had been introduced in 40 states, and over 22 states passed some right-to-know provisions. State legislators had developed new proposals to force governmental control on our plants, and tried to move the issue far beyond the CMA position.

Although battles are still being fought in California, New Jersey and Michigan, to date all the laws passed this year are generally consistent with CMA policy. We have retained our trade secret protection rights and successfully avoided costly requirements for unique labeling, environmental emission monitoring and independent risk management audits.

Public compensation was another priority issue where the results were good. It was an active issue in five states -- California, Massachusetts, New Jersey, Minnesota and Rhode Island. CMA's position was that NO administrative public compensation program was needed and

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tort law should not be changed. The CMA Policy Committee's marching orders to the state troops in the field were clear -- "Hold Pork Chop Hill."

CMA staff and member company representatives helped guide the strategy in these states. The UAREP study results were effectively used in conjunction with expert testimony provided by personnel from Centers for Disease Control, academia, the insurance industry, the legal profession, and our own companies. We were successful in four of the five states and marginally successful in the fifth.

Only Minnesota passed a public compensation bill which established an administrative fund -- and it was very limited in scope. The situation there was unique in that local industry supported the legislation because it solved some severe insurability problems created by an earlier 1983 Minnesota superfund law.

The results on another priority issue -- state superfund laws -- also were good. We successfully prevented both the adoption of unacceptable liability language and the inclusion of provisions for personal injury compensation. State superfund fees were held within reasonable limits, although some increased significantly.

CMA also played a role in preventing further proliferation of unique state regulations of toxic air contaminants. As an example, Massachusetts has been slowed down in their effort to regulate 450 compounds in six months by shortcutting good science. Reason has prevailed despite Massachusetts' impatience with the federal government for only promulgating regulations for six (6) hazardous pollutants since 1970.

Progress was even made in the transportation area -- CMA helped orchestrate the passage of a couple of more "Good Samaritan" laws bringing the total to 34 states.

CMA member companies took the lead in these cases. Our preparation over the previous three years paid off, and our network delivered. But we can't rest on past success. The outlook for the future is one of increasing challenges.

Additional releases of toxic substances since Bhopal continue to erode our privilege of self-regulation.

Instead of being innocent until proven guilty, industry now can look forward to trying to justify its existence and its very right to operate in the neighborhood.

Our challenge will be to prove that our operations will NOT create a problem. The burden of proving this kind of negative is limited only by reasonableness, as defined by state authorities whose survival in office depends on their response to political winds.

At the same time the political climate is deteriorating, federal policy is turning the "spotlight" on state and local programs. Two issues -- groundwater regulation and toxic air contaminants control -- will be handled primarily by the states if the U.S. EPA has its way.

When EPA announced its groundwater strategy, it was -- quote -- "based on tradition deeply ingrained in our legal and institutional history. The states have and should continue to have fundamental responsibility for protection and management of the resource itself.."

States will be deciding when and how much industry pays for multi-million dollar programs related to:

- Cleaning up groundwater under existing plant sites.
- Providing alternative sources of drinking water for the public.
- Requiring retrofit capital for existing facilities to ensure better groundwater protection.

States will maintain the right to ban the use or sale of certain chemical products if groundwater is threatened.

The story is similar for air toxic control. On June 4, Lee Thomas announced a substantially new approach for reducing public health risks from airborne toxic pollutants. Federal standards for individual contaminants will no longer be the prime tactic for control of air toxics.

EPA plans to provide financial assistance for strengthening state programs for control of air toxics from large point sources having localized impacts. We will have to address the issue not in Washington, but at the numerous locations where problems are felt to exist. No longer will states have to wait for U.S. EPA to act before they can require new emission controls on "toxics." Tens, if not hundreds, of millions of dollars for additional emission controls are at stake.

Clearly, groundwater and toxic air contaminant issues will be two of our top priorities for next year. In addition, when the bell rings in January, our opponents will be back for the next round on several of the same issues we had last year.

SUPERFUND

Some have estimated that by 1990 total state superfund program costs will exceed those of CERCLA as states tackle more abandoned sites not on the National Priority List and pay more for long-term site maintenance.

RIGHT-TO-KNOW

Our opponents will push for what they did not get this year -- emission monitoring and independent audits of our plant safety programs.

PUBLIC COMPENSATION

Minnesota's action this year will cause some states to play catch-up. In addition, plaintiff lawyers will continue to push to reduce "burden of proof" for chronic health cases. Their carrot is hundreds of millions of dollars of court settlements.

HAZARDOUS WASTE DISPOSAL PRACTICES

The push to phase out landfills and deep wells will continue.

HAZARDOUS SUBSTANCE TRANSPORTATION ISSUE

Post-Bhopal analysis of risks will focus on transportation of hazardous materials. Routing restrictions and additional fees will be considered.

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Our planning conference in June identified these as priority issues and we have established some specific objectives to improve our effectiveness in tackling them:

- Expand our computerized early alert and information network to improve staff productivity.
- Better use of public relations or advocacy communication at state level.
- Establish two-way "electronic mail" capabilities with key chemical industry councils to better meet their needs.

Our action plans for next year remain consistent with the original premise of the CMA State Affairs Program. Basically, we target to do what we do better.

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Last year, Jim Murray stood before you to ask for additional CMA staff support for the state program. You responded, and I think the results speak for themselves: The team has performed. On behalf of everyone who was out there in the trenches, I want to borrow a slogan used by the United Way a couple of years ago, and say -- "Thanks to you, it's working -- for all of us."

We have built a national network that is stronger than any one of us could have done on our own. By leveraging our position, we have produced very good returns on our rather limited investment.

The CMA State Affairs effort needs your continued support next year in four basic areas:

1. Maintain CMA staff support at the same level as last year.
2. Provide additional active member company personnel to serve on state CMA task groups established for the priority issues.
3. Support state trade associations and chemical industry councils with dues and experienced people. Bill Wood will expand on this request in his presentation, which follows.
4. Involve senior chemical industry executives in state matters with follow up provided by local personnel.

With your continued support in these areas, CMA State Affairs Committee should do an even better job next year as the "watchdog for our industry at the state level."

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