

ecology reports

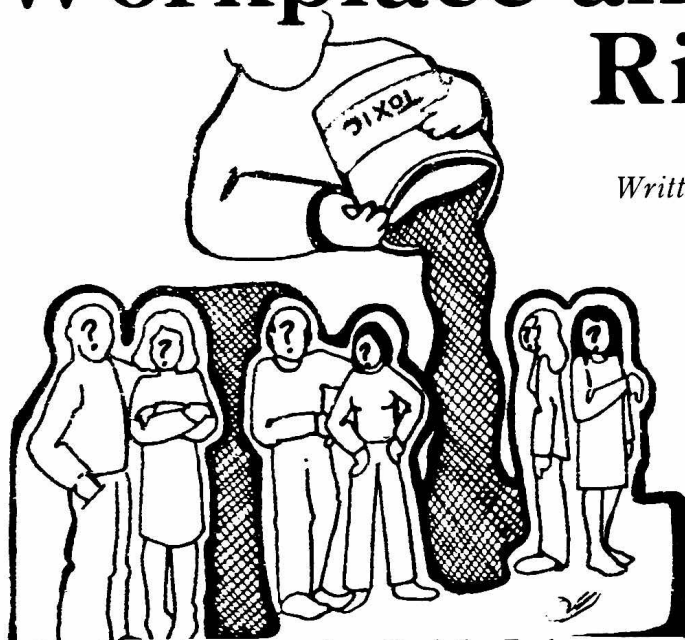
June, 1985

Volume XVII, No. 4

Editor: Anne Sherman Hooth

Workplace and Community Right-to-Know

Written by David Stead, Ecology Center Issues Coordinator



The Board of Directors and staff of the Ecology Center have recently endorsed the concept that all members of the community and workplace have a fundamental right to know about the types and use of toxic and hazardous substances to which they are or may be exposed. The right to know is an important environmental and social issue which has been brought to light by the recent Bhopal disaster. This incident drives home the frightening fact that industrial and commercial workers are confronted with daily and direct exposure to highly concentrated chemicals, and an increasing number of community residents are potential victims of exposure to hazardous substances released or discharged by industrial and commercial activities or accidents. A study conducted by the National Institute for Occupational Safety and Health Administration (NIOSH) has estimated that as many as 100,000 people die each year from workplace exposure to hazardous substances and from resulting occupational diseases. However, the Federal Occupational Safety and Health Administration (OSHA) itself proposed that only 54% of chemically-related occupational illnesses occurred in the chemical manufacturing sector in 1981.

This estimation is taken from the final rule for the regulation of hazardous substances in the workplace promulgated by the OSHA, which fails to:

- * adequately address the crucial issue of chemical identification;
- * require adequate informational resources to employees for the safe handling of hazardous substances;
- * provide information to the community on hazardous substances in the event of an accidental spill, fire, leak, or natural catastrophe; and
- * provide any protection to employees other than the manufacturing and laboratory employees in SIC codes 20-39.

The OSHA standard excludes approximately 75% of the workforce including all public employees in transportation, utilities, construction, health care, and other occupations where chemicals are used.

Despite its obvious inadequacies, the Reagan Administration believes that this standard balances safety with manufacturers' concerns about chemical secrets, and that it would not affect community components in local laws. The Chemical Manufacturers Association and the State Chamber of Commerce support the adoption of the federal standard on the grounds that it pre-empts state and local laws. The Federal Third Circuit Court of Appeals recently ruled, however, that the scope of the federal standard should be expanded to include all employees that may be exposed to hazardous substances. The Court also ruled that the procedures for determining trade secret status for a substance were not adequate and would have to be rewritten.

The Ecology Center of Ann Arbor • 417 Detroit Street, Ann Arbor, Michigan 48104 • (313) 761-3186
Office Hours: Mon.-Fri. 9:30-5:00, Sat. 9:30-1:00; Library Hours: Mon.-Fri. 12:00-5:00, Sat. 9:30-1:00

Recycling Drop-off Station • 2050 South Industrial Highway
Operation Hours: Fri. & Sat. 9:30-4:30; For Information: (313) 665-6398

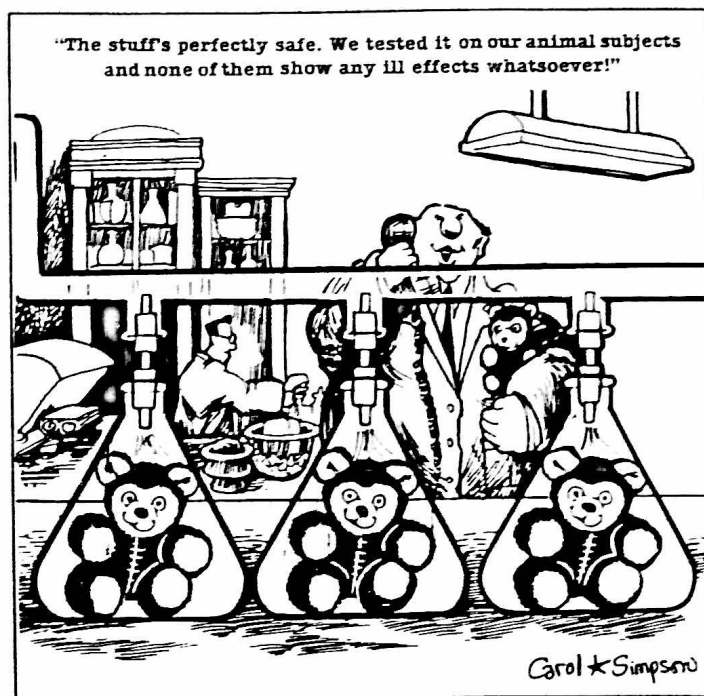
HOUSE BILL 4111

Responding to the federal standard, House Bill 4111, known as the Right-to-Know legislation, was introduced in the Michigan House of Representatives on February 6, 1985, by Representative Juanita Watkins (D-Detroit). The bill provides for community and worker access to information on hazardous substances through container labeling, Material Safety Data Sheets (MSDS), and employee training programs. The bill adopts the hazard communication standard promulgated by OSHA and addresses several deficiencies in the OSHA standard. The Ecology Center has been actively involved with developing strategies, presenting testimony, and lobbying individual representatives to insure the passage of this legislation. The bill was voted out of the democratic-controlled Labor Committee on May 29 by a 10-8 vote split along party lines.

On request of Governor Blanchard, a statement supporting the legislation was sent to Representative Watkins from the Directors of the Department of Commerce, Public Health, Labor, Natural Resources, and Agriculture. The Governor himself, however, is reluctant to become involved in the resolution of differences between labor and industrial manufacturers and businesses in the state concerning this piece of legislation. The current legislation is seen as a compromise by a right-to-know coalition comprised of environmental, labor, professional, and citizen organizations. The Ecology Center, the Michigan Environmental Council (MEC), the AFL-CIO, the UAW, firefighters union, and several health professional organizations have endorsed the legislation.

The risk of an exposure to a hazardous substance increases when maintenance personnel and employees receive inadequate training and information to respond to the use of hazardous substances, as new substances are introduced into the workplace, as safety procedures become outdated, and as industrial plants age without proper maintenance. The release of contaminants in the workplace environment through spills, dumping, discharges, or final products use have made it inevitable that community members would join with workers to demand the right to know. An informed citizenry is necessary in democratic societies to make the decisions required to maintain governmental integrity and legitimacy. It seems ironic that individuals entrusted with the means to control their country are not given the means to control the conditions necessary to insure their own health and well-being.

The release of contaminants in the workplace environment through spills, dumping, discharges, or final products use have made it inevitable that community members would join with workers to demand the right to know.



The determination of potential acute and chronic health effects of hazardous substances in the workplace and the community is complicated by the fact that many of the effects or signs of symptoms occur in non-occupational populations, so that the effects of exposure are difficult to separate from normally occurring illnesses. In addition, most chemicals have not been adequately tested to determine their health hazard potential, and data do not exist to substantiate these effects. Chronic effects which generally occur as a result of long-term exposure often are not evident until many years later. If detailed records are kept, it will be easier to link health diseases to their occupational origins.

Aside from an increase in paperwork, industry is concerned about the lack of uniformity of requirements among various states and municipalities that enact right-to-know laws. Chemical industry officials contend that new regulations would increase business costs without improving safety. While industry does not object to limited disclosure, it fears that the outcome of greater disclosure will be an increase in the filing of compensation suits alleging health problems caused by chemical exposure. Employers seldom bear the cost of chronic occupational disease, therefore there is little incentive to control the workplace environment. However, if chemical manufacturers and other employers are held responsible for a larger percentage of workers' compensation, perhaps they will find it in their best interest to protect the health of their employees.

The quality of a hazard communication program is largely dependent upon the adequacy and accuracy of the hazard determination. The current OSHA standard requires information to be provided on approximately 600 chemicals. It further requires chemical manufacturers and importers to evaluate new chemicals produced in their workplaces or imported to them to

determine if they are hazardous. Chemical manufacturers, importers, and employers evaluating chemicals are not required to follow any specific methods for determining hazards, a process that fails to assure the protection of the public health and welfare. HB 4111 gives the Department of Public Health the authority to use the criteria of the OSHA standard to determine whether a substance should be categorized as hazardous and to add chemicals to the list of regulated substances. These provisions serve to limit the manufacturer's discretion and inherent bias in making a hazardous determination and establishes objectivity and uniformity in the standards.

Industry executives are legitimately concerned that the true beneficiaries of increased disclosure of alleged trade secrets will not be the general public but will be a company's competitors. The current OSHA standard provides no guidelines for determining trade secret claims and allows manufacturers to withhold any chemical identity as a trade secret, provided that the claim can be supported by HB 4111, that it provides criteria for the Department of Public Health for determining trade secrets, and that it requires the generic chemical classification to be included on the MSDS. In addition, the label must indicate that the specific identity is being withheld as a trade secret. A proposed amendment would prohibit chemicals to be withheld as a trade secret that are known carcinogens, mutagens, reproductive toxins, lung irritants, or sensitizers.

Workers may refuse to perform a job assignment which they reasonably believe will result in death or serious physical injury under the federal and state OSHA regulations. However, this right does not protect workers that are asked to handle unidentified materials. HB 4111 protects employees that refuse to handle containers which are not in compliance with the labeling and MSDS provisions of the OSHA standard.

Local officials are faced with impossible decisions about the threat to their communities relating to the use, storage, and disposal of hazardous substances. Adequate information on the increasing numbers and amounts of chemicals in common use must be available to protect the health and safety of the public. HB 4111 allows the provision of an inventory of hazardous substances to local fire departments, county health officials, or others, upon request to the Department of Public Health. Local officials may further request a MSDS sheet for a specific hazardous substance which is included in the inventory. The bill would allow authorized employee representatives, including medical and occupational health services, to receive information if the representative is in compliance with the requirements that the information remain confidential. This knowledge will allow employees and the community to take appropriate protective measures to reduce the possibility of exposure to toxic and hazardous substances, which will thereby result in reduced health costs, workers compensation costs, and environmental damage and impairment.

LOCAL REGULATION

The chances of the state right-to-know legislation becoming a law are not good considering the anti-regulatory climate in the state and country. Several communities and counties throughout the state have enacted or are in the process of developing local right-to-know laws in response to the lack of action in Lansing, with MacComb County enacting the first local right-to-know regulation. The Michigan State Chamber of Commerce has filed a civil action suit against the regulation based on the federal pre-emption of state and local law, due process, unconstitutional taking of property, and several other counts.

A Washtenaw County Right-to-Know Ordinance has been developed through the efforts of the County Health Department and the Right-to-Know task force. The Ecology Center Board of Directors and staff have extensively reviewed and commented on the regulation and endorse its adoption. A public hearing will be held before the County Commissioners vote on the proposed regulation, and the citizens of Washtenaw County must be prepared to urge the Commissioners' support in the face of certain efforts to prevent its enactment by the Chemical Manufacturers and the State Chamber of Commerce.

The scope and content of this regulation are similar to the legislation being considered at the state level. A major objective of the regulation is to improve the County's control and ability to respond to an emergency related to hazardous substances within Washtenaw County. The regulation contains several provisions that are improvements on the state legislation. These include:

- * the provision of an additional status sheet to be filed with the MSDS which will contain information on personnel for emergency notification;
- * manifests for storage and disposal;
- * a description of the storage and work area containing the substance; and,
- * the authority for the County Health Officer to issue citations for violations of the provisions of the regulations.

The cost of implementing the right-to-know laws is a small price to pay for the health of the environment and the welfare of the citizens of the State of Michigan. State and local governments must act in view of the inadequate provisions of the federal standard concerning the right to know about hazardous substances used in the workplace and in their communities. Eighteen states have enacted hazard communication legislation which goes beyond the OSHA standard. It is the responsibility of our public officials to enact legislation and regulatory mechanisms to protect the public health from exposure to toxic and hazardous substances.

Michigan's Energy Policy

Future Looks Bright



Two exciting developments in Energy Policy for the State of Michigan could produce very positive results for environmentalists and electric ratepayers in the coming decades.

The first is a major state initiative by Governor Blanchard, the Michigan Department of Commerce, and the Public Service Commission to assure a least cost electricity future for Michigan consumers. The second is the National Audubon Society's (NAS) selection of Michigan as one of five states to receive technical assistance from their Science Division in least cost electric energy forecasting.

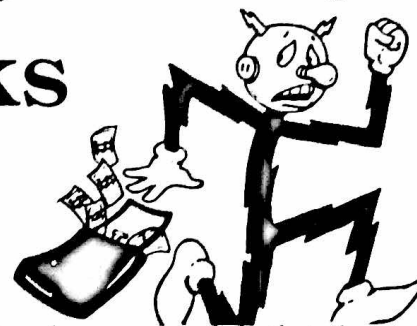
These developments are a direct result of recognition by policymakers that the electric utility business has changed dramatically over the last decade. Consumers Power's recent cancellation of the Midland Nuclear Power Facilities, the multi-billion dollar investment recovery rate case for that plant, and the one billion dollar rate request by Detroit Edison for the Belle River and Fermi II power plants are all symptoms of those changes.

Least Cost Electricity Options Study

According to a recent Energy Administration report, "The way of doing things--where utilities build new power plants and, upon commercial completion, present the final bills to customers--no longer works well. Investors are hesitant to risk billions on power plant construction; utilities are confronted with power supply planning under ever-changing circumstances; and customers are faced with a rate shock."

The same report recommended implementation of a three-part state initiative involving: 1) enactment of power plant/power supply review legislation; 2) adoption of tax, regulatory and other incentives to pursue cost effective (the optimal mix of) power supply alternatives; and 3) completion of a least cost electricity options study.

The first is often referred to as 'certificate of need' or 'power plant siting' legislation, allowing the public review process to occur before a power plant is constructed. This process would allow citizen and regulatory agency input into the key questions of need for the power, type of power plant, and siting of any power plant, before construction actually occurs.



A criticism of such an approach is that the cost of constructing any agreed-on power facility becomes a shared liability of all ratepayers in the state. In the case of the Midland Nuclear Facility cancellation, a certificate of need process would have resulted in the Michigan ratepayer facing much higher costs, and Consumers Power (and its shareholders) much lower, than each currently expects. However, proponents of such legislation would argue that the facility would never have been constructed in the first place if a certificate of need process had been required.

Environmentalists will be most interested in the third recommendation: completion of a least cost electricity options study. The two year, \$3.6 million study is expected to produce a data base, analysis, and set of recommendations on power supply options that can then be used in power plant /power supply review, and in the creation of new tax, regulatory, and financial incentives to pursue the optimal mix of cost effective power supply options. As currently designed, the study will cover the full range of power supply options including those often advocated by environmentalists: energy efficiency, conservation, renewable energy technology, demand side load management, cogeneration, and biomass.

The Audubon Energy Plan

Kay Dodge, Director of the Grand Rapids based Center for Environmental Studies, and Vice-President of the Michigan Audubon Society, is the environmental representative on the Advisory Committee for the Least Cost Electricity Options Study. Environmentalists will have opportunities for additional representation on subcommittees assembled to research and review components of the study.

The assistance of the NAS Science Division will be an important resource for environmentalists participating in the study. The Science Division will be using a computerized forecasting model that was the foundation for the development of the Audubon Energy Plan. This plan is a 'detailed, comprehensive program which, by the year 2000, could assure the United States of enough energy to power a healthy and growing economy while protecting the natural environment and the quality of American life'. The detailed computer model will estimate the impact of Audubon's proposed policies on energy demand, fuel mix, and consumer costs for the State of Michigan.

The NAS Science Division has estimated that the implementation of the Audubon Energy Plan policies on a national level would stabilize demand for utility electricity in the year 2000 at less than 1984 levels, and nearly half of what a business-as-usual approach would indicate for the year 2000. Projected year 2000 consumption of all types of energy would be 19% lower than a year 2000 business-as-usual approach, and 2% lower than 1984 energy consumption levels.

Computing the effect of Audubon's Energy Policies for Michigan will serve as an important tool in evaluating the quality of other research being completed for the Least Cost Electricity Options Study. Terry Black, Director of the Michigan Energy Administration, and project manager for the study has

indicated that duplication of specific areas of study will be used where necessary to insure that an objective and unbiased data base is available to policy-makers. The assistance of the NAS Science Division and the Audubon Energy Plan will serve to insure that objectivity.

Ecology Center members interested in more information about these developments can contact Jim Frey, Staff Coordinator at the Ecology Center. Qualified individuals who may be interested in participating in subcommittees of the project are encouraged to contact Mr. Terry Black, Michigan Energy Administration. Updates on progress of the study will be provided in future issues of Ecology Reports.



Volunteer Corner

Summer Volunteers Needed

In the summertime when the weather is fine...Ecology Center staff members tend to hit the road. Summer vacations coupled with many new Center projects create a need for lots of volunteer help. If you've been meaning to learn a little bit more about the workings of the Ecology Center, we can offer several different options.

On the inside: Coverage/Office Volunteers - Helping out around the Detroit St. office is one of the best ways to gain knowledge about current environmental issues, not to mention getting to know the staff and other volunteers. Coverage shifts run from 9:30 - 1:00 or 1:00 - 5:00.

On the outside: Curbside Recycling Volunteers - If you'd prefer to soak up the sun and take in the fresh air while helping out, climb aboard one of our curbside recycling trucks. They depart every morning at 8:30 and offer a great opportunity to get out and see Ann Arbor.

Well, think it over, take your pick and give Carole a call at 761-3186. We're looking forward to meeting you!

NEW BICYCLIST MAP

A new bicyclist map is now available free of charge from the City of Ann Arbor. The map is an improved and updated version of the original bicyclist map and includes Washtenaw County, Ann Arbor/Ypsilanti, and a blow-up of downtown Ann Arbor. Three colors have been used, as well as a variety of symbols to indicate the different types of bicycle facilities. We're sure the new map will come in handy for all those who enjoy summer site-seeing by bicycle!

If you wish to obtain a map, please send a stamped, self-addressed, business-sized envelope to:

City of Ann Arbor
Bicycle Program - Map
P.O. Box 8647
Ann Arbor, Michigan 48107

For more information, please contact the Bicycle Coordinator's office at 994-2814. Maps can also be obtained at the Ecology Center, 417 Detroit St.



Ann Arbor Banks on Solar Energy

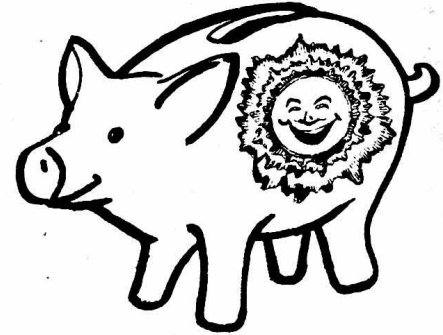
Ann Arbor has once again reaffirmed its leadership in the promising solar energy field with the completion of the Corntree Co-op project in May. Although it was not a large project (total solar costs of just over \$3,000), it is significant because it marks the first usage of Federal Energy Bank money for solar energy in the State of Michigan.

The Energy Bank offers loan subsidies of \$200 for each million BTU's of usable solar energy contributed per year from an eligible heating system, or a flat 40% of the installation costs for solar water heaters. To be eligible, the system must be found to be economically sound by an independent energy auditor, and the system design approved by the Energy Department in Lansing. Once this is accomplished, the buyer must obtain a loan from a participating bank. When the project is completed, the Energy Bank money is applied towards the principle of the loan.

Because of the generous tax rebates (40% federal and 30% state) on the cost of solar installations to primary residences, most homeowners can get a better deal through the tax rebates than through the Energy Bank. However, for places like the Corntree Co-op which are not eligible for the tax credits, or for people who pay little in federal taxes, the Energy Bank becomes an attractive option.

The Energy Bank has traveled a difficult road to existence. It was first proposed and defined during the Carter administration as the Solar Bank, but existed on paper only when the Reagan Administration took over. The Reagan Administration has looked on all forms of solar support and research with disapproval, and aside from cutting the solar research budget by over 90%, Reagan declared the Solar Bank dead in November, 1981. However, after a successful suit in federal court by the Solar Lobby, Reagan was forced to reactivate the Solar Bank in 1982. Passed to HUD for implementation, the program was redefined as the Solar and Conservation Bank.

HUD 'implemented' the program by first trying to rescind the \$21.9 million authorized for the bank funding. When this was not allowed, HUD passed the buck to the individual states in sort of a federal 'block grant' program. All states wishing to utilize Solar and Conservation Bank funds were asked to define both their eligibility and what method they would use to administer the program. Originally, Michigan was going to use the funding only for energy conservation measures until two Ann Arborites, Cindy Conklin of the Ann Arbor Energy Office, and Jim Frey from the Ecology Center, lobbied to put solar back into the 'solar bank'.



Thanks to a great deal of effort by the Ann Arbor Community Development Department, the Corntree Co-op, and Sunstructures Construction, Ann Arbor was the first in the state to utilize the Energy Bank funds for solar energy. 'When Corntree showed an interest in the Energy Bank, I called the state energy office to get the formula for computing solar contribution, but they didn't have one', says Dave Konkle, system designer and local solar expert with Sunstructures. In response, Konkle utilized his education in solar engineering and set a precedence for computing solar contribution in Michigan in order to determine the degree of funding eligibility from the energy bank. With the degree of loan subsidy defined, it was up to Community Development to contact banks and find those who were willing to participate. Corntree was required to get a complete energy audit on their building, and a zoning variance to allow construction to the top of their already tall structure. Sunstructures then had to submit design criteria to the state for approval. It took a total of seven months for full approval, while the actual construction of the solar space heating system was completed in just three days. Working on the system was Washtenaw Woodwrights, a subcontractor for Sunstructures.

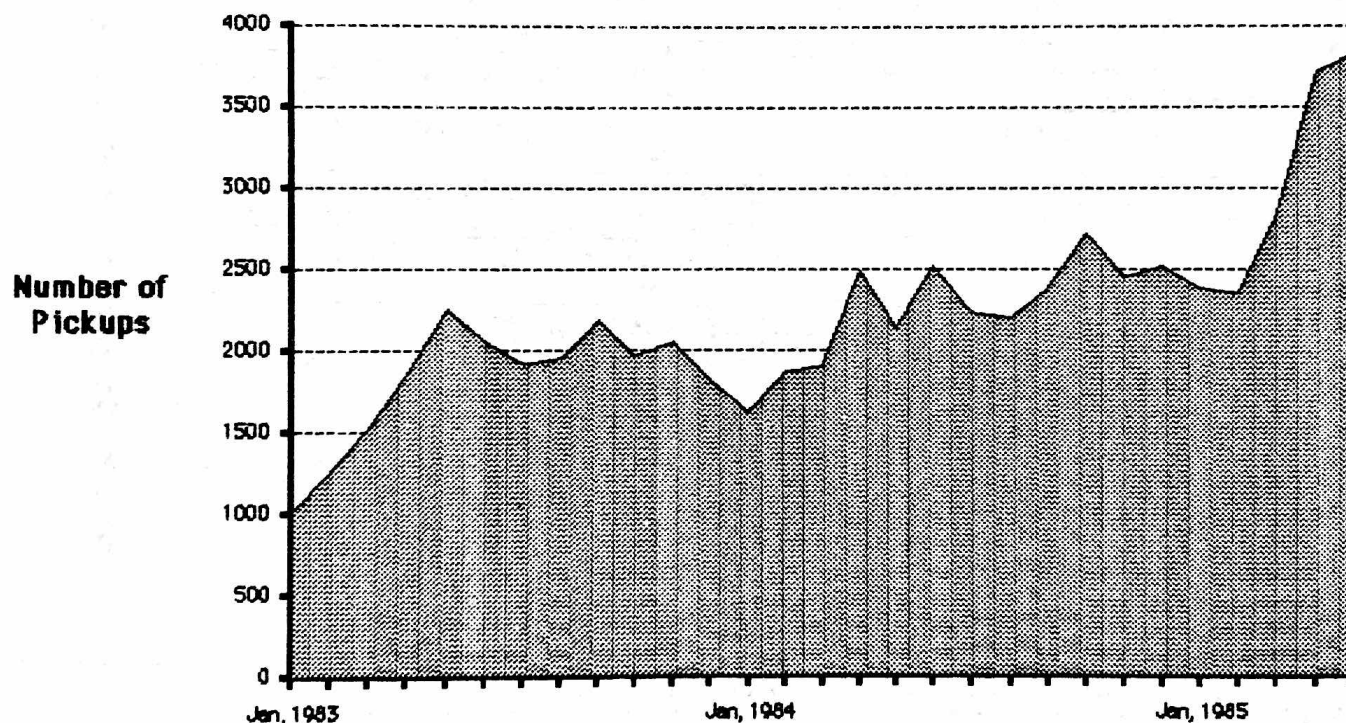
With this great accomplishment, all those who proved their dedication to the advancement of solar energy, despite an unfriendly administration, have earned a small but sweet victory. With the Energy Bank still under fire at the federal level, its future is uncertain. If it can be kept alive into 1986, it will become more attractive to homeowners as the 40% federal solar tax rebate program ends in December. While its demise would be quite unfortunate, it will certainly not dim the enthusiasm of those determined to explore solar as a viable energy source for the future.

Updates and Notices

Watching Recycle Ann Arbor Grow!

1983-1985 RAA Curbside Pickups

From 1,000 pickups in January of 1983 to 3,800 in May of 1985



June Newsletter Donors

John Leidy Shop

Talbot and Associates

Gerald D. Naylor, D.D.S.

Saguaro Plants and Flowers

Susan Haddock, Family Dentistry

We would like to thank our donors for their support and ask you to support them. Each month, business donors contribute to the Ecology Center to become newsletter sponsors. Please contact Mike Kopka at the Ecology Center to discuss this tax-deductible advertising opportunity.

WE DEMAND THE RIGHT TO KNOW!

by Ken Silver

chorus

What's in that business over there? WE DEMAND THE RIGHT TO KNOW! Is it a
 time bomb a - tick - in? Will it gas us or ex - plode? To
 protect us from death and disease we need the chem-i - cal i - den-ti - ties Of the
 stuff you're u - sing in that plant WE DE-MAND THE RIGHT TO KNOW! Now there's
 something that's a stirrin' a - cross this might-y land in
 places where the toxic threat has worked its e - vil hand folks are
 saying loud WE'VE HAD E - NOUGH, we're organized and we're getting tough On the
 companies who dump their stuff on our jobs and com - mu - ni - ties Oh...



Ecology Center of Ann Arbor

MEMBERSHIP RESPONSE FORM

- ☐ YES! I'd like to join the Ecology Center of Ann Arbor. Enclosed is my membership contribution of \$15 (\$5 for seniors).

The total of my check is:

☐ \$100 ☐ \$50 ☐ \$25 ☐ \$15

Other \$ _____

Ecology Center of Ann Arbor
 417 Detroit Street
 Ann Arbor, Michigan 48104
 (313)761-3186

- ☐ I am enclosing an additional amount to help you with your important work.

Mr.

Mrs.

Ms. _____

Address _____

Telephone _____

address correction
 requested

Non-profit
 Organization
 U.S. Postage
 PAID
 Ann Arbor, Mich.
 Permit No. 3