



## U. S. Chemical Safety and Hazard Investigation Board

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### Board Action Report

**Notation No.: 102**

**Voting Period:** Urgent Notation Item March 13, 2001 – March 20, 2001, but votes are requested as soon as possible

**Subject:** Final CSB Rule on Testimony of Employees and Production of Records in Legal Proceedings

Whereas,

1. The nature of the CSB's investigative mission creates a high likelihood that CSB employees will be requested or subpoenaed to testify or produce records in litigation to which the CSB is not a party;
2. The CSB's authorizing statute, 42 U.S.C. 7412(r)(6)(G), bars the admission as evidence of CSB conclusions, findings or recommendations in civil suits arising out of incidents investigated by the CSB;
3. Frequent court appearances by CSB employees would divert them from their official duties, involve the CSB in matters unrelated to its core mission, create an inappropriate appearance of partiality, and require expenditure of public funds for private purposes; and
4. The attached draft final rule, to be published in the Federal Register upon Board approval, addresses the aforementioned concerns by strictly limiting the circumstances under which CSB employees may testify or produce records in civil litigation;

Therefore, pursuant to its authority under 42 U.S.C. § 7412(r)(6)(N), the Board hereby votes to adopt the attached draft final rule on testimony of CSB employee and production of records in legal proceedings, and to authorize its immediate publication in the Federal Register.

**Approval Date:** March 20, 2001

	<u>Approve</u>	<u>Disapprove</u>	<u>Not Participating</u>
<b>Isadore Rosenthal</b>	x		
<b>Gerald Poje</b>	x		
<b>Andrea Taylor</b>	x		