

Six industries alerted to possible suits

By Denis Cuff

Staff writer

SAN FRANCISCO — Environmentalists threatened Wednesday to sue six Contra Costa industries in a test of state requirements to warn neighbors about health risks from pollution.

Citizens for a Better Environment said the plants should have mailed warnings to all households exposed to significant risks from cancer-causing pollutants.

The industries disagree. They contend that either their pollution is insignificant, or they complied with the Proposition 65 law by warning neighbors through signs and newspaper advertising.

The plants are Dow Chemical in Pittsburg, Gaylord Container paper mill and Du Point chemical plant, both in Antioch, Chevron Chemical and Bio Rad Laboratories, both in Richmond, and Systron Donner, a high-tech defense contractor in Concord.

All the plants emit air pollution with trace amounts of chlorinated solvents on the state list of cancer-causing substances.

"These factories are exposing people to cancer-causing emissions without adequately warning them," said Mike Belliveau, program director of the San Francisco-based environmental group.

Citizens for a Better Environment on Wednesday issued the companies an intent-to-sue notice, which must be given 60 days before filing a lawsuit under Prop. 65.

This would be the first lawsuit on applying the law to neighbors of industries releasing air pollution.

Under the California toxics initiative approved by voters in 1986, people must be given "clear and reasonable" warnings if exposed to a significant health risk from carcinogens in air, food or water.

Dow Chemical spokeswoman Sarah Prince said her company's Pittsburg plant complies through warnings on plant gate signs and newspaper advertising published four times annually.

Dow emits carbon tetrachloride, which is widely used in the manufacture of chemicals.

Du Pont plant manager Ian Dunn said the plant's emissions of carbon tetrachloride are too small to pose a significant health risk to plant neighbors.

"Our findings are that if you breathed this amount from the day you were born 'til the day you die, there would not be a significant risk," Dunn said.

Air board considers tougher penalties on repeat polluters

By Jim Cole

Staff writer

Chronic air polluters may face fines of up to \$10,000 under a proposal adopted Wednesday by the Bay Area Air Quality Management District.

The district board unanimously agreed the district should revise its regulations so that repeat offenders would face the tougher fines, said Contra Costa Supervisor Sunne McPeak, an air board member who proposed the higher fines.

Currently, the maximum penalty is \$1,000. State law requires the district demonstrate negligence to collect a fine of more than \$1,000.

The district will attempt to rewrite its regulations so repeat violations will constitute negligence, said McPeak. The redefinition of negligence will be "a step, a huge step, beyond the current definition under law," she said.

As for the legality of the proposed new regulation, McPeak said, "It will be up to the courts to say, 'You don't have that authority.'"

The district's action was prompted by a series of

Times articles in December that revealed the Bay Area's six oil refineries have violated air district regulations more than 550 times in the past 2½ years, and the average pollution fine paid by the refineries is \$532.

Critics argue the district has been ineffective in deterring refineries from polluting because the fines are so low.

Last month, the district began exploring the possibility of sponsoring legislation that would make it easier to collect larger pollution fines. That effort is continuing.

In the meantime, the redefined regulations would give the district added power against refineries and other polluters.

The proposal was referred to the district's legal staff and McPeak said she hopes to have the revised regulations in 30 days.

The maximum fine the district can seek is \$25,000, but only if a polluter knowingly violates regulations and fails to correct the situation.

Chevron spokesman Jeff Krag said the chemical plant emissions are not a significant risk. "We placed ads to be on the conservative side," he said.

Julia May, a researcher for the environmental group, disagreed, saying all six plants release pollutants requiring a warning. How many neighbors must be warned is yet to be determined, she said.

May said newspaper advertising and plant signs don't assure that notices go to everyone in exposed neighborhoods.

The six plants together emit more than 670,000

pounds per year of cancer-causing substances, the environmental group said it learned from industry reports to the state and federal government.

In addition to carbon tetrachloride, the plants emit chloroform, methylene chloride, perchloroethylene and trichloroethylene.

May said the group wants industry to come up with safer substitutes for the chemicals that cause cancer. Many industries contend they should not be forced to switch if they hold down emissions of carcinogens to within safe levels.

Chemical firms faulted under anti-toxics law

Critics seeking warnings for public

By Jane Kay
EXAMINER ENVIRONMENTAL WRITER

An environmental group has charged that six Bay Area manufacturers have failed to warn the public of unsafe exposures to cancer-causing emissions.

Under the "citizen suit" provision of California's tough anti-toxicant law, Citizens for a Better Environment this week notified state and county prosecutors that if a warning requirement was not enforced within 60 days, the group would go to court to show violations and win penalties.

The action is the first major environmentalist move against air toxics under Prop. 65.

The group alleges that six Contra Costa County companies have failed to individually notify community residents of significant risk from chlorinated solvents and formaldehyde emitted from their plants, as required by Prop. 65, also known as the Safe Drinking Water and Toxic Enforcement Act of 1986. The measure says citizens may bring enforcement action by direct lawsuits if the attorney general or a district attorney fails to act.

The six companies are:

- Dow Chemical USA, which discharged the largest releases of many different chemicals. Among them was the potent carbon tetrachloride, which has been blamed for contributing to the deteriora-

tion of the stratospheric ozone layer. Dow officials say they are in compliance with Prop. 65 because they issue warnings four times a year in three local newspapers and with a sign at the plant gate.

- Gaylord Container Inc., which emits chloroform from the bleaching process of pulp and paper and formaldehyde, both potent carcinogens. Officials did not respond.

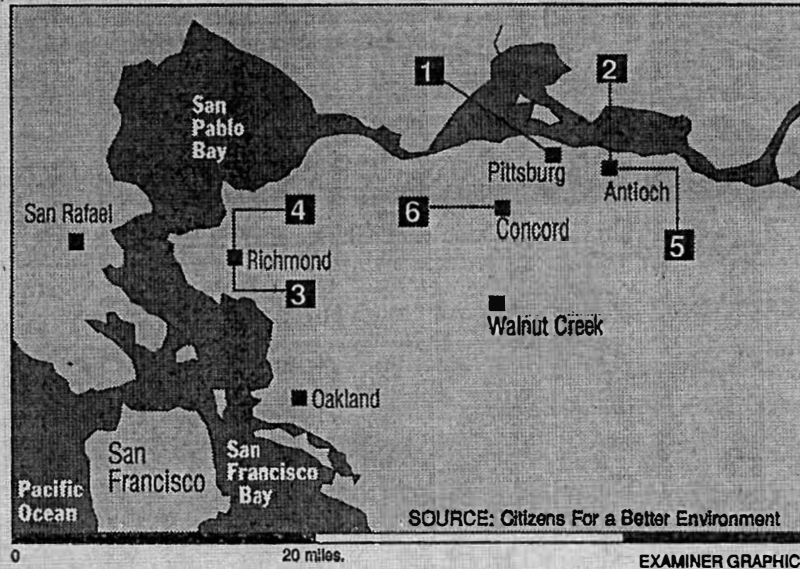
- Bio-Rad Laboratories' Chemical Division, owned by Hercules, which manufactures chemical products. The Bay Area Air Quality Management District is investigating the company's permit requirements and verifying its high chloroform emissions. A lawyer for the company said the plant's discharge was not a significant health risk, although signs had been posted at the facility.

- Chevron Chemical Co., which uses methylene chloride to produce pesticides, including Orthene, and gasoline additives. Neighbors have complained for years about plant and incinerator releases. A spokesman said the plant did not pose a risk to the public, but that as a conservative measure Chevron had put warning signs on the plant and ads in newspapers.

- Du Pont, which releases carbon tetrachloride when it manufactures chlorofluorocarbons and other chemicals. Du Pont says its releases do not pose a significant risk.

- Systron Donner Corp.'s Inertial Division in Concord, a high-tech military contractor that manufactures guidance system components. Representatives did not respond.

EMISSION SOURCES



- 1. Dow Chemical, Pittsburg:** Carbon tetrachloride, methylene chloride, perchloroethylene, trichloroethylene.
- 2. Gaylord Container Inc., Antioch:** Chloroform, formaldehyde.
- 3. Bio-Rad Laboratories, Chemical Division, Richmond:** Chloroform.

- 4. Chevron Chemical Co., Richmond:** Methylene chloride.
- 5. Du Pont, Antioch:** Carbon tetrachloride, methylene chloride.
- 6. Systron Donner, Inertial Division, Concord:** Chloroform, methylene chloride.

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Prop. 65 turns up first toxic violator, in Concord

Firm to help fund for investigations

By Eric Brazil
OF THE EXAMINER STAFF

A Concord manufacturer of aerial guidance-system components has agreed to stop using two cancer-causing chemicals and contribute \$22,000 to a fund to investigate toxics abuse.

The consent judgment signed Thursday by Systron Donner Corp. is believed to be the first settlement of an air pollution case obtained under Proposition 65, the 1986 anti-toxics initiative.

Systron Donner had been using the proscribed carcinogens methylene chloride and chloroform as solvents while making accelerometers — devices that provides a continuous record of acceleration.

Citizens for a Better Environ-

ment, a San Francisco organization, lodged a Prop. 65 notice with the company, saying that Systron Donner failed to deliver warning notices to the residents of a nearby trailer park and homes in a central Concord residential area.

Prop. 65 prohibits discharge of chemicals known to cause cancer, birth defects or sterility in drinking water. It requires businesses to warn people exposed to toxic chemicals they use.

Systron Donner stopped using methylene chloride and chloroform on June 13, substituting less toxic solvents, according to a decree signed by Contra Costa County Superior Court Judge Norman Spellberg.

The company agreed to pay \$22,000 to the Toxics Coordinating Project, a statewide coalition of environmental organizations, to be used to investigate and enforce Prop. 65.