

WORKING NOTES

ON COMMUNITY RIGHT-TO-KNOW

ducts

adhesives nail

November-December 1992

A WORKING PAPER ON OUR RIGHT-TO-KNOW ABOUT TOXIC POLLUTION

Threshold Proposal Draws Attention

"Working Notes" keeps activists informed on key issues around implementation of the federal right-to-know law. This article looks at a "technical" issue that could nonetheless have a big impact on the scope and usefulness the toxics release inventory.

Early this election year, in a burst of deregulatory zeal, the Bush Administration urged businesses to identify "burdensome" regulations during a "regulatory moratorium." A newly formed business coalition seized the opportunity to reduce burdens like right-to-know reporting.

As a result, the U.S. Environmental Protection Agency (EPA) recently requested comments on (but did not endorse) a petition to restructure reporting thresholds under the toxics release inventory (TRI). The proposal, first advanced by the Small Business Administration, would eliminate releases of less than 5,000 pounds from TRI.

The TRI program has proven valuable for putting information on toxic pollution before the public. Under the Emergency Planning and Community Right-to-Know Act of 1986, manufacturing facilities must report toxic releases if they have ten or more full-time employees, use certain listed toxic chemicals, and use these chemicals in substantial amounts.

The 10 employee exemption, chemical lists and use thresholds exclude 83% of the potential reporting facilities, according to EPA. The proposed restructuring would further eliminate the majority of the report forms now filed.

However, businesses would still have to determine whether their chemicals are covered, which operations use the chemicals, and how much is released before they could determine whether to file a report. By contrast, existing thresholds are much

easier for businesses to calculate; they are based on the use of chemicals (25,000 pounds for manufacturing or processing, 10,000 pounds for otherwise using a listed chemical).

Consequently, the restructuring proposal fails to address or effectively help small businesses. The proposal would also add an additional layer of complexity to reporting and enforcement, eliminate valuable information, and undermine the goal of zero discharge.

In its October 27 Federal Register notice EPA raised some important questions about release based thresholds.[1] The following critique addresses EPA's concerns in five areas.

Statutory Authority

EPA does not have the authority to change the basis of the threshold structure and establish release based thresholds. The thresholds under EPCRA §313(f) apply to manufacturing, processing or using a chemical.

Burden on Small Businesses

Small firms with fewer than 10 employees are already exempt from reporting. The existing clearly-defined 10 employee exemption limits the burden on small businesses far more effectively than the proposed release based thresholds. Release based thresholds are unrelated to business size.

The U.S. General Accounting Office has urged EPA to identify facilities with fewer than 10 employees that should be required to report toxic releases. Adopting release based thresholds could lead to abandoning the much simpler 10 employee exemption.

Appropriateness of Release Based Thresholds

Small and zero release reports are

valuable for comparing similar facilities across industrial sectors. Release based thresholds inappropriately eliminate the most successful examples of pollution prevention and control.

Such thresholds also abandon the goal of zero discharge, a fundamental pollution prevention concept, and replace it with debate over "permitted" levels of release and exposure. This reduces incentives for pollution prevention and perpetuates contentious debate over safe and acceptable levels of pollution. And, both EPA enforcement and citizen suits would be severely hampered by difficulty calculating whether facilities have surpassed the 5,000 pound threshold.

Release Volume Issues

Small releases of some TRI chemicals have caused serious injury or death. Small releases of other persistent toxic chemicals can bioaccumulate in the food chain. What is more, EPA cannot accurately assess the aggregate or synergistic effects of chemicals released in an area. Therefore, EPA cannot identify "safe" levels of release. Right-to-know reporting is intended to hold chemical users accountable, and does not require prior proof of chemical risk or exposure.

Alternatives

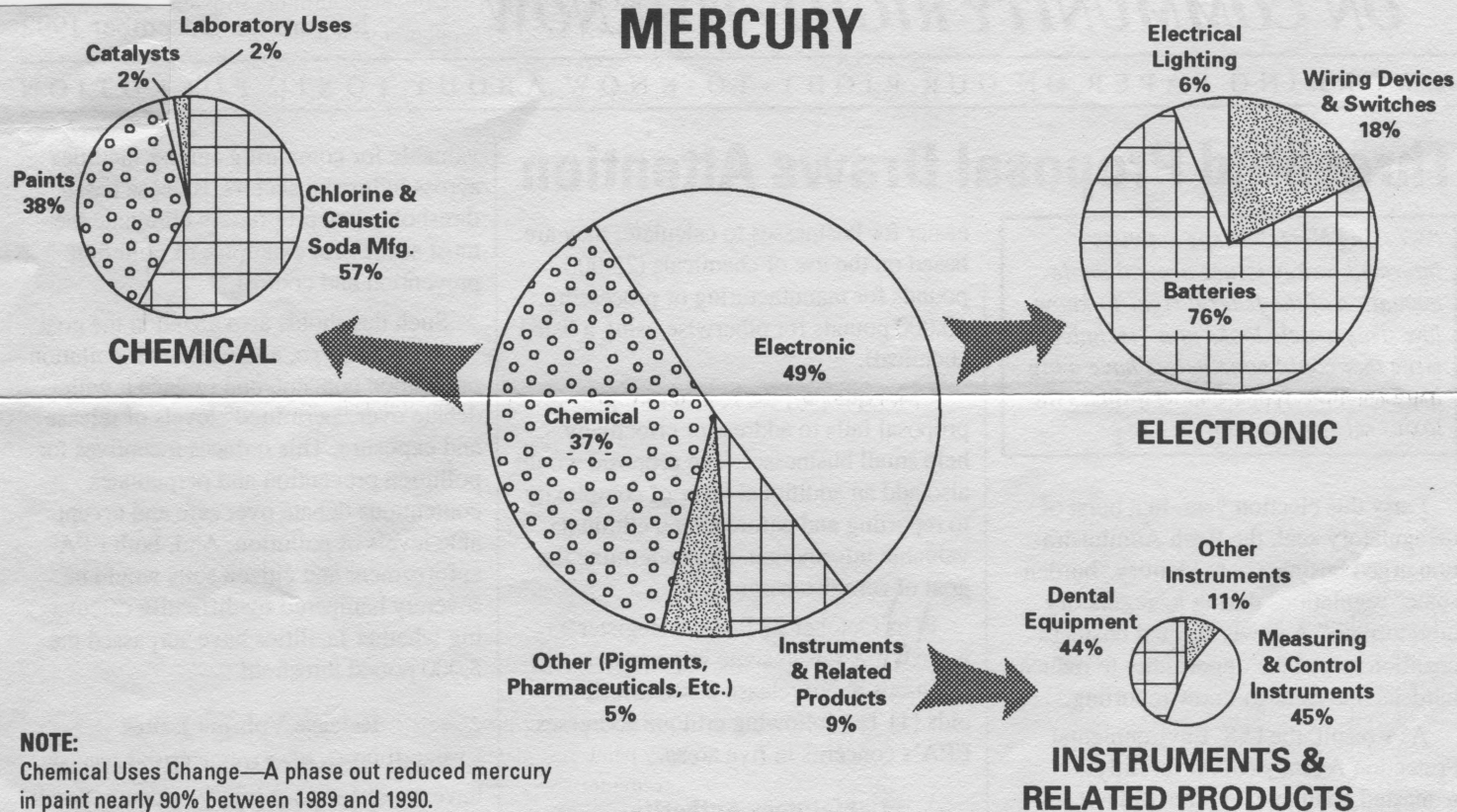
Burden reduction can best be achieved by a vigorous program of toxics use reduction, not by wiping out information needed to understand where and why toxic hazards exist. Burden reduction can also be achieved by avoiding the use of TRI as a trigger for unrelated regulations. The petition inappropriately cites proposed regulations as a reason for reducing right-to-know reporting.

EPA wants your comments, due by December 28. Late comments are accepted. Send three copies to: Docket #OPPTS-400072, TSCA Public Docket Office TS-793, U.S.E.P.A., 401 M St. SW, Rm. NE-G004, Washington, DC 20460.

[1] 57 Federal Register, page 48706

Sample Use Diagram for a Priority Chemical

as show the breakdown of major uses of a chemical. The information helps researchers and policy priorities for finding safer substitutes.



The diagram illustrates major uses of a sample chemical in manufacturing. Other points of potential toxic exposure are not included above, such as mining, non-product output (industrial waste) and the recycling, treatment or disposal of household products. Many chemicals are present in a bio-available form only at a few points in the manufacturing cycle — and yet can have devastating consequences for public health and the environment.

Data source: Draft use trees, Center for Clean Products and Clean Technologies, University of Tennessee, project on safe substitutes evaluation.

U.S. Mercury Use — 1989 (tons)

| Use | Amount |
|----------------------------|--------|
| Industrial Processes | 483 |
| Products | 852 |

Use in Sample Products (tons)

| | 1986 | 1987 | 1988 | 1989 | 1990 |
|-----------|------|------|------|------|------|
| Batteries | 827 | 586 | 494 | 275 | 117 |
| Paint | 197 | 218 | 217 | 211 | 24 |

Annual U.S. Mercury Air Pollution — Quantified Sources Only (lbs.)

| Pollution Source | Amount |
|---|---------|
| Coal-fired Utilities | 191,903 |
| Latex Paint | 137,000 |
| Municipal Waste Incinerators | 95,734 |
| Coal (Homes, Factories) | 35,333 |
| Industrial Emissions | 29,139 |
| Lamp Breakage | 18,133 |
| Oil (Utilities, Homes, Factories) | 15,332 |

| Pollution Source | Amount |
|--|---------|
| Medical Waste Incinerators | 12,500 |
| Manufacture of Instruments and Electrical Apparatus | 2,880 |
| Laboratory Use | 1,600 |
| Dental Preparation and Use | 858 |
| Total Identified Emissions | 540,412 |

Unquantified sources include mercury mining, hazardous waste incinerators, smelters, natural gas and other sources.

Source: *Mercury Warning: The Fish You Catch May Be Unsafe To Eat*, Clean Water Fund, August 1992, 61 pages, (202) 457-1286.

Sample TRI Chemicals in Common Household Products

| TRI Chemical | Potential Health Effects* | Sample Products |
|---|---------------------------|--|
| Acetaldehyde | A,C,E | Adhesives |
| Acetone | Ch,E | Varnishes, lacquers, paint thinners, furniture strippers, adhesives, nail polish remover, art supplies, metal polish |
| Acrylonitrile | A,C,D,E,R | Fabrics, apparel |
| Ammonia | A,Ch,E | All-purpose cleaners, glass cleaners, hair dyes |
| 1,3-Butadiene | C,Ch,D,R | Carpets |
| Carbaryl | A,Ch,E,N,R | Pesticides, pet flea and tick treatment |
| Cadmium | A,C,Ch,D,E,R | Nickel/cadmium batteries |
| Chlorine | A,Ch,E | Chlorine bleach, disinfectants |
| Chlorothalonil | C,E | Lawn chemicals |
| Cresol | A,Ch,E | Art supplies, disinfectants |
| 2,4-D | A,C,D,E,R | Lawn chemicals |
| Dibutyl phthalate | Ch,D,E,R | Paint, adhesives |
| 1,2-Dichlorobenzene | E | Carpets |
| Di(2-ethylhexyl) phthalate (DEHP) | C,Ch,D,E,M,R | Pliable plastics, fabrics, apparel, hair spray |
| Diethyl phthalate | A,E | Paint, adhesives |
| 2-Ethoxyethanol | Ch,D,R | Polyurethane wood finish |
| Ethylbenzene | Ch,D,E,R | Carpets, paint |
| Ethylene glycol | Ch | Deodorants/antiperspirants, paint |
| Formaldehyde | C,Ch,E,M,R | Plywood, particle board, clothing, adhesives, upholstery, fabric, fingernail polish |
| Hydrochloric acid | A,Ch | Toilet cleaners |
| Lead | D,N,R | Batteries, stain/varnish/sealant, hair dyes |
| Mercury | Ch,E,N,R | Batteries |
| Methanol | N | Paint thinners, strippers, adhesives |
| Methylene chloride (dichloromethane) | C | Spay paint, rust paints, paint strippers, adhesives, adhesive removers, pesticides |
| Methyl ethyl ketone | Ch,D,N,R | Paint thinner, adhesives, cleaners, waxes |
| Methyl isobutyl ketone | Ch,N | Paint thinners, pesticides |
| Naphthalene | E | Mothballs, adhesives, pesticides |
| Nickel | C,Ch,D,R | Batteries |
| n-Butyl alcohol (n-butanol) | Ch | Paint strippers, perfume, aftershave lotion |
| Paradichlorobenzene (p-dichlorobenzene) | C,Ch,E | Mothballs/crystals, certain air fresheners, toilet deodorizers |
| Pentachlorophenol | A,D,E,R | Varnish/stain/sealant |
| Perchloroethylene (tetrachloroethylene) | C,Ch,D,E,R | Dry cleaning, rug/upholstery cleaners, spot removers |
| Phenol | A,D,E | Art supplies, adhesives |
| Phosphoric acid | None listed | Metal polish |
| Styrene | C,Ch,E,M | Carpets, building materials |
| Sulfuric Acid | A,Ch,E | Batteries |
| Toluene | D,E,M,R | Paint, nail polish, furniture strippers, adhesives, art supplies, carpets, paint strippers and thinners |
| 1,1,1-Trichloroethane (methyl chloroform) | D,E,R | Carpets, dry cleaning, spot removers, fabrics, typewriter correction fluid, adhesives/glues |
| Vinyl chloride | C,Ch,D,M,R | A variety of household plastics, including furnishings and apparel |
| Xylenes | Ch,D,E,R | Paints, adhesives, pesticides, art supplies, furniture strippers |
| Zinc | E | Batteries |

Key to Abbreviations:

- A - Acute toxin
- C - Carcinogen
- Ch - Chronic toxin
- D - Developmental effects
- E - Environmental toxin
- M - Mutagen
- N - Neurotoxin
- R - Reproductive effects

* Health effects data are from EPA's toxicity matrix for right-to-know chemicals. The assembled information is presumed to be incomplete; further testing would be likely to produce additional entries on the matrix.

For information on chemical synonyms (omitted here) get "Common Synonyms" publication from U.S. EPA, 1-800-535-0202.

Source: *Tackling Toxics in Everyday Products: A Directory of Organizations*, Inform Inc., 381 Park Avenue South, New York NY 10016, (212) 689-4040.

Education Grants Available

The Environmental Protection Agency's environmental education grants program may help non-profit organizations fund environmental education activities. The agency is preparing to distribute \$2.8 million for projects to "design, demonstrate, or disseminate practices, methods, or techniques related to environmental education." Non-profit and educational organizations are eligible. Many of the grants are for \$5,000; some are larger. The deadline for pre-application is January 15, 1992. For more information, see the *Federal Register*, Friday, October 16, 1992, page 47516.

EPA Reevaluates Ponderous "CBI"

Should industry be allowed to hide toxics health and safety information? Is it wise for EPA to expend scarce resources keeping large amounts of data secret? Does it make sense to collect information in a hard to manage form? A new report to EPA says it's a problem. For a copy of *The Influence of Confidential Business Information [CBI] Requirements on Toxic Substances Control Act Implementation*, contact EPA's Scott Sherlock at (202) 260-4399. EPA may proposed some changes next year.

Please send me more information!

11/12-92

- ☐ EPCRA introductory information packet
 - ☐ Full list of EPCRA resource packets
 - ☐ Subscription to Working Notes
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Name: _____

Address: _____

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Send to: Working Group On Community Right-To-Know
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Quotable

"If we can minimize usage, we can minimize purchase of new chemicals. It makes good business sense."

— Anne Paradis, GE environmental engineer, (Lewiston, Maine *Sunday*, Oct. 11, 1992).

Resources

Should corporations risk their existence if they cause major harm to public health

and the environment? A new brochure provides a brief history of popular control (or the lack of it) over corporations and argues for a renewed citizens' right and responsibility to revoke corporate charters where the public trust is abused. To order *Taking Care of Business: Citizenship and the Charter of Incorporation*, send a self addressed, stamped #10 envelope (letter size) and \$4 to: Charter, Ink./CSPP, PO Box 806, Cambridge, MA 02140. (32p.).

Working Group on Community Right-To-Know

Working Notes presents material from the "Working Group on Community Right-To-Know," an affiliation of more than a twenty national environmental and public interest organizations. Working Notes serves a nationwide network of activists working to protect and promote our Right-To-Know about toxic pollution. ©1992. Readers are encouraged to copy and disseminate this newsletter with proper credit.

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inputs = outputs ~~for~~ 114 Sec B
re data quality

1993 } Base years - 5 years
1995 }

10,000 lb threshold

Use
Release } Targeting
NPO } plan to measure

^{summaries}
New pp will be due for 98- given to
DEP July 1, 1999 for 93 reporters
new industries July 1, 2000 - electrical
wholesale

July 1, 2001, for 95 reporters

AR

→ Plan Review documents / ^{public document} checklist for onsite review
→ Can ask to review confidential versions
of 15 enforcement actions
13 said O's

DEQ 114 covers a few more companies than TRI
See 13.1 RE: trade secrets re Pascatic

#23 #24 in 114 are critical questions
no measurement in place was common

#25 discontinue substance
look at this for downsizing study ???

% reduction at process level, not pounds
can't aggregate data

Faulty Wide Permitting - ^{these companies feel they have done} everything they can do

Mike DiGiore 777-0518 [Dri - Print
Schering
DeBussA

"very cooperative" only co likes materials accounting"

Refineries (1995 reporter) - all based on
Calculation

• Permacel - opp. for reduction
possibility for plan review

Followup

- opportunities }
- progress }

DEQ - 114

check enforcement records - better luck at field
offices - Middlesex

{ water
air
hazardous

STAFF

total hazardous air pollutants HAPs - no limit for
specific chemicals

VOCs has

Title 5 - Air Permitting Section - do after
Facility targeting

Naval - cross mediatransfer
air strippers

California

Proposition 65 Comes of Age



GOVERNOR GRAY Davis's decision last month to phase out methyl *tert*-butyl ether shows that state regulators are

likely to become more active under California's first Democratic governor since 1982. Chemical industry representatives hope that Davis will also bring regulatory intervention to Proposition 65—the state law designed to reduce exposure to known carcinogens and developmental toxins.

Davis's election snuffed out lingering industry hopes for repealing Proposition 65, which California voters approved 2-to-1 in 1986. "People who advocate an outright repeal of Prop 65 are living in a dream," says Steve Forsberg, president of the Western Crop Protection Association (Sacramento). Instead, industry representatives hope that increased state regulation and enforcement will take Proposition 65 out of the hands of citizen enforcers and the courts.

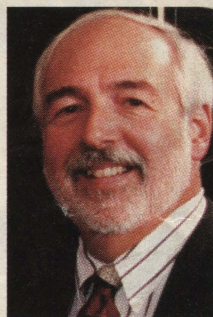
At the same time, both industry and environmentalists are pondering recent court decisions that have changed the ground rules for Proposition 65 lawsuits. A recent case won by Shell Chemicals may stem lawsuits against out-of-state chemical producers brought under Proposition 65's labeling provisions. However, another recent decision has created opportunities for litigation under long-ignored provisions of the law that prohibit discharges of carcinogens and developmental toxins.

Proposition 65 invites litigation through its enforcement provisions, which allow citizens to bring suits. Unlike most U.S. environmental laws, Proposition 65 puts the burden of proof on defendants. Companies that do not provide warnings must prove that exposures to listed chemicals are below safety levels set by the California Environmental Protection Agency (CalEPA;

Sacramento).

Environmentalists view the law as a success because most companies choose to reformulate their products rather than litigate. Environmental Defense Fund (EDF; New York) senior attorney David Roe, the statute's lead author, says most companies act quickly when facing a lawsuit. "Clean up rather than fess up is the example," says Roe.

For branded consumer products, reformulation tends to be nationwide or even worldwide. "You'd be out of your mind to reformulate for the California market and keep selling a dirty version in the other 49 states," says Roe. Proposition 65 has also prodded California manufacturers to cut plant emissions, he says. Toxics Release Inventory (TRI) data show more rapid



Hickox: CalEPA's door is open.

standards since 1986, which Roe says far exceeds EPA activity.

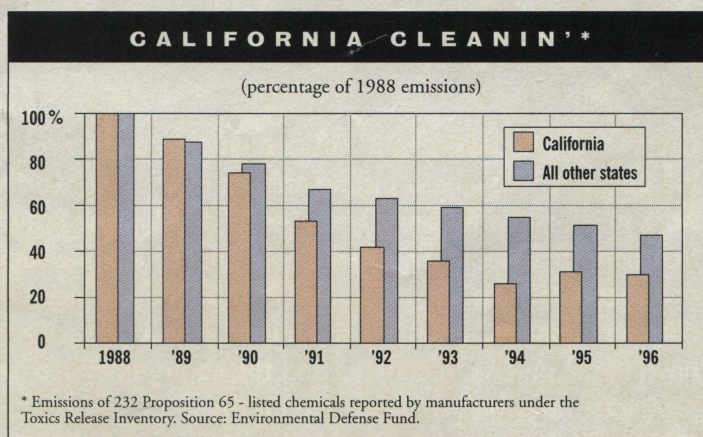
Companies that produce and consume listed chemicals take a radically different view of Proposition 65's enforcement provisions. They say the difficulty of proving that exposures are safe makes companies that do not provide warnings easy prey for plaintiffs. Settlements, the industry argues, often require warnings or reformulation of products that pose little risk. "The bounty hunters have perverted Prop 65," says David Lloyd, director/government affairs for the National Paint and Coatings Association (Washington).

The most active Proposition 65 litigant is public interest group As You Sow (AYS; San Francisco), which has filed more than 800 petitions warning of its intent to sue. Its earliest targets included nail polish producers, who agreed in settlements to remove toluene from their products. The Cosmetics, Toiletries, and Fragrances Association (Washington) says its tests showed that exposures to toluene from nail polish were below CalEPA's safety standard.

AYS took on paints and adhesives makers next, filing petitions against 38 producers. Most settled, agreeing to warn or reformulate and to pay AYS's legal fees plus penalties. Sherwin-Williams, one of the targeted paintmakers, settled for \$1 million in 1994. As it settled these cases, AYS began moving up the chemical chain in 1995, filing suits against producers of toluene and other chemicals. AYS alleged that the chemical producers failed to provide warnings for occupational exposures to their products, even though the chemicals were produced outside California.

AYS filed or threatened suits against several hundred producers, including Ashland Chemical, 3M, H.B. Fuller, Monsanto, and Shell. Most settled, with Ashland paying the largest amount: \$1.1 million (CW, April 24, 1996, p. 10). The state received \$400,000 in penalties, California activist groups got \$300,000, and Ashland spent the remainder for labeling and reformulation.

Only Shell fought AYS in court, arguing that OSHA's hazard communication standard overrides Proposition 65 for out-of-state manufacturers. Shell won the case last October, after three years of litigation in



emissions reductions in California of the 232 Proposition 65 chemicals that are also listed on TRI than in other states (chart).

Roe says Proposition 65 has spurred more chemical risk assessments than federal laws because it requires warnings at all exposure levels unless CalEPA sets a standard. CalEPA has established more than 300



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which a state judge threatened to enjoin Shell from shipping toluene to its California customers.

Stanley Landfair, a partner at McKenna & Cuneo (Los Angeles), which represented Shell, says most companies settle to avoid the cost of responding to AYS's discovery motions. He says Shell won because AYS was unaware of the OSHA standard. "They sort of stumbled into this issue backward," he says.

Landfair says the Shell case clarifies that Proposition 65 cannot be applied to sales of chemicals in tank cars or drums filled outside California. He says some companies are seeking to have their settlements thrown out, which would free them from obligations such as notifying AYS annually of changes to their product lines. While companies could also ask for their money back, Landfair questions whether the activist groups that benefited from the settlements would be able to pay. "It could be throwing good money after bad," he says.

Meanwhile, AYS has filed suit against one of its cofounders, Clifford Chanler, the lead attorney on more than 600 of its cases. AYS accuses Chanler of overbilling by as much as \$493,000, misrepresenting himself as "a public interest lawyer who shared the environmental goals of AYS," and using information gained in AYS cases to file Proposition 65 cases for other plaintiffs. Chanler denies all wrongdoing.

While the threat of occupational suits has eased for out-of-state chemical producers, recent court cases are reviving Proposition 65's water discharge prohibitions. These include a 1996 decision against fixture maker American Standard concerning metals released by faucets into water—the only Proposition 65 case to date decided by the California Supreme Court.

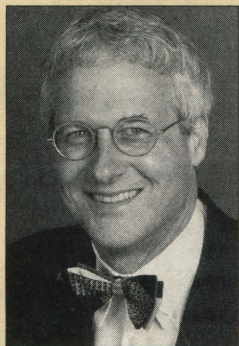
James Meeder, managing partner/California for law firm Beveridge & Diamond (San Francisco), says the Supreme Court's interpretation that Proposition 65 is intended to protect public health rather than punish wrongdoing invites plaintiffs to construe the law's application broadly. Meeder says a lawsuit filed last month seeks to hold various perchloroethylene (PERC) pro-

ducers, including Dow and PPG, responsible for water contaminated with PERC by their customers.

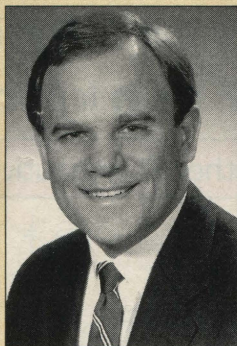
Plants operating within their federal water permits could be sued for failing to comply with Proposition 65. Meeder represented

chemicals EPA added to TRI in recent years. The American Crop Protection Association (Washington) lost its suit to block those additions and is appealing.

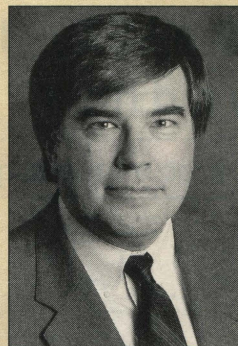
Environmental groups, which used the courts to enforce Proposition 65 during



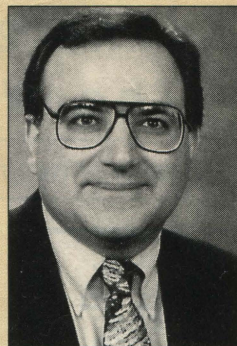
Roe: Companies clean up rather than fess up.



Landfair: Throw out the settlements.



Meeder: Discharge suits could explode.



Paparian: Pent-up demand for regulation.

Dow Chemical's Pittsburg, CA plant in one such suit brought last year by the San Francisco Bay Keepers, which Dow recently settled (*CW*, July 22, 1998, p. 57).

Meeder says developmental toxins are likely to cause the most trouble for water dischargers, since Proposition 65 generally sets a tougher standard for those chemicals than federal permits do. For example, Meeder says federal permits commonly allow lead discharges of 20 parts per billion (ppb), while the level allowed under Proposition 65 could be as low as 0.25 ppb.

Another unresolved issue is whether contaminants migrating underground qualify as ongoing discharges under Proposition 65. Meeder says this may be decided by several hundred suits recently filed against refiners. The suits allege that refiners are liable for leaks from underground tanks at the gas stations they supply.

Meeder says the state water control boards, which issue federal water permits and oversee cleanups in California, could limit the litigation wave by ensuring that their permits comply with Proposition 65. This is one example of the regulatory leadership that the industry hopes the Davis administration will show.

Another item on the industry's wish list is a narrower application of the law's authoritative-bodies provision, which requires the addition of chemicals to the Proposition 65 list if other agencies designate them carcinogens or developmental toxins. EDF and other environmental groups have used this provision to force CalEPA to list many

Republican administrations, say they, too, are amenable to regulatory intervention. "Proposition 65 was designed to do well during both hostile and not-so-hostile administrations, but there is pent-up demand for some regulatory leadership on Proposition 65," says Michael Paparian, the Sierra Club's chief lobbyist in Sacramento.

Paparian says regulation will clarify what is allowable for all sides, leaving the courts to decide disputes over substance—such as whether particular exposures are legal—rather than the process by which this is judged. Paparian says that so far, Davis's appointees have had a proven track record in forging consensus among industry, environmentalists, and other stakeholders. "That was missing in the Wilson administration," he says.

Winston Hickox, Davis's newly appointed CalEPA secretary, speaking in Sacramento last month at the annual conference sponsored by newsletter publisher Prop 65 News (San Francisco), indicated that he recognizes the need for regulatory intervention in Proposition 65. "Proposition 65 is a program in overdrive. It's kind of scary—I feel a loss of control."

Hickox says Davis plans to pursue a middle-of-the-road environmental policy. "I know the governor wants me to have an open door to the regulated community," he says. At the same time, Hickox says, he continues to support the ballot initiative for which he campaigned in 1986. "I do not have the sense that the program is broken."

—PETER FAIRLEY in Sacramento

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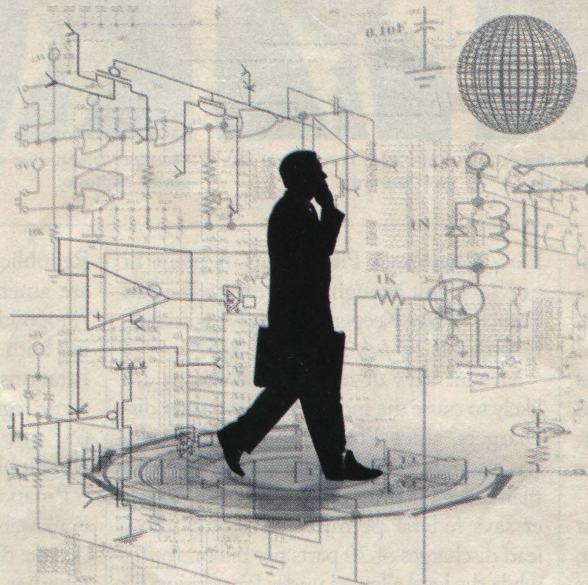
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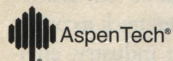
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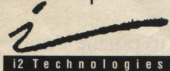
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At 96, Mansfield's too busy to be pitching for little blue pills on TV

WASHINGTON — I had lunch last week with the man I think may be the greatest living American. He is Mike Mansfield, the former Senate majority leader and ambassador to Japan.



DAVID S. BRODER

One thing I know for sure. There are few American lives that match the one Mansfield has lived in his 96 years. Beginning six years ago, when he was a mere lad of 90, several of the reporters who had

covered Mansfield over the years have joined him for birthday lunches at the invitation of his great friend, Washington attorney and former Senate aide Charles Ferris.

Each year, we feast on the wisdom and simple goodness of this magnificent Montanan.

CONSIDER just the bare outlines of the journey he has traveled from his birth in the Bowery when the century was only 3 years old. He fibbed about his age to join the Navy at 14 and later served in the Army and the Marines, including a stint in China that fed a lifelong fascination with Asia.

He went to Montana and worked in the copper mines, but met a young schoolteacher who recognized his exceptional qualities and encouraged him to pursue an education. After 68 years of marriage to Maureen Hayes, that teacher, his devotion is undiminished.

When the state Legislature recently proposed erecting a statue of Mansfield in the Montana Capitol in Helena, Mansfield replied: "If it's

just me, no; if it's Maureen and me, OK."

He was elected to the House in 1942 and to the Senate 10 years later. He served as Democratic majority leader longer than anyone else in this century, from 1961 to his retirement in 1976, and then began a second, equally distinguished career as ambassador to Japan from 1977 to 1988 — establishing a longevity record in that post, as well.

Still lean and erect as a cowhand, with a memory for names, dates and places that any history major (or newspaper reporter) would kill for, Mansfield can bring to life his own intimate experiences from the mining camps in the frontier West to the maneuverings that produced the great civil rights bills of the 1960s and the tragedy of Vietnam.

But this is no elder living in the past. As a senior adviser to Goldman Sachs, the investment bank, Mans-

field reads five newspapers a day and meets with a steady stream of officials from around the world.

His judgments are acute; in a few, well-phrased sentences, he can define the differences between Al Gore and Bill Bradley, and tell you why one would make a better president than the other.

Or, he can take a question about China's likely intentions for the decade, and deliver an unruffled 10-minute discourse on the geography and nation of that country — a feat of a tiny man. He helpfully defines as "primarily"

His hallmark — what has made him loved as much as he is respected — is his kindness and self-effacement. In the days he ran the Senate, he relished coming onto programs like *Meat* and *Listening* to us people.

ing exactly the right word. When the conversation at lunch turned to American foreign policy, Mansfield called it "haphazard." That's better than 3,000 words.

EPA's toxics-release list should focus on real problems, not on scare tactics

By **BENJAMIN STEVENSON**
For the Courier-Post

The U.S. Environmental Protection Agency (EPA) is preparing to publish its annual inventory of industries that discharge toxic chemicals into the nation's air, water and land. Office-seekers make environmental protection a keystone of their campaigns. Newspapers carry articles about polluters almost daily.

This attention is not misplaced. Greater public input is needed in policies that permit the continued discharge of hazardous substances and blur distinctions between what is legal and beneficial and what is illegal and harmful. A case in point is the Toxics Release Inventory (TRI), the EPA's storehouse of information on hazardous wastes.

This year, 37,000 industrial facilities — some 6,400 more than in 1997 — will be required to provide data on almost 600 toxic chemicals that are given off by the plants. The EPA will make the information public online and in print, listing companies and industries according to the volume of their emissions, state by state. The assumption is that targeting these industrial facilities is the best approach to controlling pollution.

But the inventory — well intentioned as it is — gives only part of the story. Rating a company according

to the total volume of its chemical discharges, without any consideration of risk factors such as toxicity and whether people living near the factories are actually being exposed to the chemicals, makes little sense. Large discharges of less toxic chemicals will be seen by some as alarming, while small releases of truly dangerous substances like complex organic chemicals and heavy metals may be overlooked.

THE NUMBER of chemicals that reporting industries must account for has grown twelvefold since 1987. The sheer size of the inventory has ended up confusing, rather than informing, people about what is and what isn't a serious risk. In fact, many of the substances on the list already are covered by the Clean Air Act and do not belong in the inventory. So, the tendency is for citizens to focus their interest on raw annual numbers and not seek real improvements in environmental quality.

The time has come to take a hard look at the content of the inventory. Its definition of "release" is too broad, has nothing to do with health effects, and is simply used to scare people who live near reporting facilities. In fact, most emissions are within federal and state legal limits.

The TRI has another serious shortcoming. Companies are re-

quired to provide information about actions they have taken to reduce chemical emissions. These so-called source reduction activities reduce the amount of a toxic chemical entering the waste stream and therefore prevent pollution before it is generated. Startlingly, waste management activities such as recycling are not considered source reduction because they manage toxic chemicals after they enter waste streams.

The inventory should be revised to incorporate information on the toxicity of chemicals, the extent of exposure, life cycle of chemicals used, the type of release, population densities and nearby environmental conditions. For example, wind direction and topography can be crucial.

Beyond that, chemical release totals should take into account a state's geographic size and population. Don't assume industrial plants in sparsely populated rural areas need the same attention as those in cities.

The challenge is to focus our attention on real problems, giving them proper priority. Better information based on sound science would help us identify what is really important and needs environmental protection.

The writer is an associate professor of physics at the New Jersey Institute of Technology in Newark.

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