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EPA Says DuPont Withheld Chemical's Danger;

The company knew for 20 years that the substance used to make Teflon posed a risk to its workers and the public, the agency charges.

BYLINE: Marla Cone, Times Staff Writer

The U.S. Environmental Protection Agency on Thursday charged DuPont Co. -- one of the world's largest chemical companies -- with illegally withholding evidence for 20 years that a chemical used to make Teflon endangered its workers and the public.

The federal agency accused DuPont of "multiple failures" from 1981 to 2001 to report information that perfluorooctanoic acid, or PFOA, posed "substantial risk of injury to human health or the environment," including a risk of birth defects.

DuPont denied the allegations. The company has 30 days to respond. DuPont General Counsel Stacey J. Mobley said the company would "vigorously defend our position" that no laws were broken and that the chemical was safe.

"The evidence from over 50 years of experience and extensive scientific studies supports our conclusion that PFOA does not harm human health or the environment," Mobley said.

The EPA is continuing an investigation into the risks that the Teflon ingredient may pose. The review may be finished in several months and could lead to regulations or agreements to phase out the chemical's use.

PFOA is present in the blood of nearly all the 1,500 people who have been tested in the United States, including young children.

"Whether human exposures are due to PFOA in the air, the water, on dusts or sediments, in dietary sources or through some combination of routes is currently unknown," the EPA documents said.

As a result, the "EPA does not believe there is any reason for consumers to stop using any consumer- or industrial-related product," the agency said.

Scientists use of Teflon products probably does not contaminate people's bodies with PFOA. The chemical is removed from finished products during the manufacturing process.

But the chemical is released into the water or air during manufacturing and might be formed by the breakdown of other compounds pioneered by DuPont. Those compounds

are used in stain-repellent coatings for carpets, fabrics and clothing and grease-resistant food packaging used by fast-food restaurants.

DuPont, the nation's second-largest chemical company, said PFOA was an essential ingredient in the making of stick-resistant Teflon, which is used in cookware, clothing, bedding and an array of other household products. The company said it had been unable to develop an alternative ingredient.

In lab tests on rats, the chemical caused cancer, birth defects and developmental problems. Toxicologists have reported that levels found in some children are as high as those found in chemical plant workers and approach those that caused developmental problems in rats.

"Based on certain animal studies, there could be a potential risk of developmental and other adverse effects associated with these exposures in humans," the EPA said in an April 2003 report.

Most of the tests were conducted by scientists for 3M Co., which was the main manufacturer of PFOA until 2002, when it voluntarily stopped making it.

The company also removed its Scotchgard products from the market because they contained a related chemical. Scotchgard has been reformulated.

The EPA's top enforcement attorney, Thomas Skinner, would not specify how large a penalty the agency wanted to impose on DuPont. He would only say that the EPA was seeking "in the millions" in an administrative enforcement action and would try to negotiate a settlement with the company.

The EPA has the authority to seek a penalty of as much as \$25,000 per day for each violation before 1997 and up to \$27,500 per day after that -- which would amount to about \$300 million.

Several residents of the Ohio River Valley, who filed a class-action suit against DuPont after discovering that their drinking water had been contaminated with PFOA, are urging the federal government to fine the corporation \$200 million. That is the amount DuPont earns annually in Teflon sales. The residents are joined by the Environmental Working Group, which initially petitioned the EPA to act on the chemical.

"DuPont made 17 years' worth of profit from Teflon while illegally suppressing studies on the health effects of a chemical used in its manufacture," residents Debra Cochran, Callie Lyons and Jim and Della Tennant said in a letter sent Tuesday to EPA Administrator Michael Leavitt. "Faced with overwhelming evidence that it broke the law, shouldn't DuPont lose at least one year's worth of Teflon profits?"

Ken Cook, president of the Environmental Working Group, said he was angry that the EPA planned to negotiate with DuPont and feared a cushy settlement.

The allegations against DuPont stem from company documents obtained by lawyers for the Ohio River Valley residents. The internal memos indicated that the company learned more than 20 years ago that PFOA could cause birth defects but had failed to report the information to the EPA.

A lawyer in the class-action lawsuit obtained the DuPont memos as part of his case and brought them to the EPA in 2001.

The federal Toxic Substances Control Act requires a company to report adverse health effects if a chemical they use or produce "is strongly implicated." The EPA charged DuPont with two violations of that law and one violation of a federal law that regulates hazardous materials.

DuPont's memos show that the company was aware in March 1981 of a study conducted by 3M that showed PFOA was toxic to newborn rats, killing some and causing some to be born with eye and face defects.

Within two months, DuPont discovered that two babies out of a group of five born to employees exposed to the chemical at a plant in Parkersburg, W.Va., had similar rare birth defects. One of the two children, now 23, has undergone more than 30 surgeries to correct facial birth defects.

The company found PFOA in the blood supply of its female workers and at least one of their fetuses in 1981, and also learned in the mid-1980s that the chemical had contaminated the water supply of 30,000 Ohio River Valley residents, the EPA complaint said. By 1991, DuPont knew the levels in the drinking water exceeded those considered safe but did not report it, the EPA said.

The company in 1981 moved female employees out of PFOA areas at the plant and told them to consult doctors before getting pregnant. It did not inform the EPA.

DuPont attorneys said there was no legal basis for the EPA's allegations.

Mobley said DuPont had "provided substantial information to EPA supporting our conclusion that we have followed the law." The complaint, he said, "is not about the safety of our products. It is about administrative reporting."

But Skinner said at a news conference Thursday that the information DuPont allegedly withheld was "critical" to protect human health. The EPA said its investigation into the safety of the chemical might have come sooner if DuPont's evidence had been known in 1981.

The complaint is "intended to send a message that this type of information is critical to provide, and companies have an obligation to report it by law," he said.