# GLOBAL ELECTRONICS INFORMATION NEWSLETTER

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## TOXICS LAW

The drive to strictly regulate the storage of hazardous materials in Silicon Valley industry (See the July, 1982 **Newsletter**) reached a milestone this February when the San Jose City Council unanimously enacted a model ordinance recommended by Santa Clara County's inter-governmental council earlier in the month. Other industrial communities in the Valley are expected to follow suit soon, but the city of Santa Clara, which argues that it has effective regulations in place already, may still opt for another approach.

Public officials and industry representatives first admitted the existence of a problem late last January, when it was disclosed that an underground storage tank at a Fairchild Semiconductor facility in south San Jose had sprung a leak, polluting a local water supply, and possibly triggering a rash of miscarriages and birth defects. Thus far Fairchild has reportedly spent more than $12 million cleaning up the leak, and more work remains. In addition, the company faces at least five lawsuits for millions more.

In March, the Fire Chiefs' Association, representing cities throughout the County, formed a task force to develop rules designed to prevent future spills and better prepare firefighters called to respond to industrial emergencies. From the start, industry representatives played an active role in the process. Though many high-tech firms in Silicon Valley were reluctant to go along, the leadership of organizations such as the Santa Clara County Manufacturing Group, the Semiconductor Industry Association, and the American Electronics Association played a positive role in the task force and subsequent deliberations. Industry representatives liked the emphasis on prevention, but they opposed some of the public disclosure provisions and argued that local governments should accept more liability for their actions.

The strongest opposition has been from the petroleum industry - gasoline wholesalers and retailers. The ordinance covers all toxic materials, not just those stored at electronics plants. Small gas station operators and big oil companies alike argued that the stringent storage requirements were too costly and no safer than current voluntary storage upgrading programs.

Initially, the Task Force made no attempts to involve labor, environmental, or other community organizations. As debate entered the political arena, however, several of those groups formed the Silicon Valley Toxics Coalition to work for passage of a strengthened ordinance. Despite the fact that no Silicon Valley electronics plants are unionized, organized labor took the lead in the Coalition. The Central Labor Council, AFL-CIO, mobilized workers to attend public hearings. That turnout, coupled with the continuing discovery of toxic leaks - at least 44 now - led to the multicity Inter-Governmental Council to recommend the model ordinance for passage. At labor's insistence, the IGC added a provision to protect "whistle-blowing" employees against employer retaliation.

The toxics ordinance is long and complicated, but its key provisions require new and replacement chemical storage containers to be double-walled. In existing facilities, chemical users are required to regularly monitor for leaks. Should leaks occur, the city would require replacement of the tank. Firms with hazardous materials are required to file "hazardous material impact statements" and list, for public as well as Fire Department use, hazardous materials stored on their premises.

Many of the more responsible high-tech companies based in Silicon Valley are already applying the ordinance's double-containment standards to their other domestic facilities. It is unlikely that industry will propose similar legislation elsewhere, since managers consider public disclosure to be useless paperwork. However, electronics firms will probably go along with rules initiated by public officials or community organizations. Not only is clean-up costly, but high-tech firms would find it virtually impossible to attract young engineers to area's where the water supply is polluted.