

# Toxic gas regulations found wanting

By Carl Lakey  
Times Tribune staff

Despite the risk of an earthquake prompting a toxic disaster in Silicon Valley, Santa Clara County cities have not met an urgent need for toxic gas regulation, the county grand jury said in a report released Tuesday.

The grand jury found that Palo Alto is the only city in the county to enact its own regulations for toxic gas storage and control. Differences between industry and citizen

groups have prevented uniform countywide regulations, according to the report.

"It is extremely important to the citizens of Santa Clara County that differences between industry and citizen groups be resolved as soon as possible because of the inherent risk when a major earthquake occurs," the report said.

The grand jury recommended that the county's Intergovernmental Council have a regulatory ordinance in effect by the end the year.

"We don't want another Bhopal here," said grand jury member Ruth Krandel.

Referring to the two recent South Bay earthquakes measuring over 5.0 on the Richter scale, Krandel said it's no longer a matter of if a disaster will occur, but when.

"We can no longer operate with 'if' as the premise, she said.

In its report, the grand jury turned its concern to poisonous and flammable gases and irritants,

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such as arsine, phosphine, chlorine, diborane and silane, that have become more common with the rise of Silicon Valley's semiconductor industry.

There is legislation covering the storage, use and disposal of solid and liquid toxic materials. But the standards for toxic gases are often left to the discretion of companies that use such gases.

Because of the prevalence of many of the gases, the state Legislature in 1985 appropriated \$100,000 for the Santa Clara County Fire Chief's Association to study the problem of gas storage and use and to design a model regulatory program.

If enacted by cities in the county, the model ordinance could eventually be used statewide.

The so-called "Bhopal prevention ordinance" would require companies to implement improved engineering controls, such as exhaust treatment, or scrubbing, systems designed to neutralize accidental releases of toxic gases.

The Palo Alto consulting firm Practicon and Associates completed a proposed model ordinance in June 1987.

But the model ordinance led to disagreement between the Silicon Valley Toxics Coalition, which favored the ordinance, and industry, which preferred existing regional fire code regulations.

City managers told the grand jury that they were concerned about companies leaving the area if they are faced with "excessive" regulations.

For example, the report said that

Mountain View officials told the grand jury that while industries want to comply with the recommended requirements, they also want several years to implement them.

However, the report also said that several companies in Palo Alto and Los Gatos have already installed equipment to meet the requirements of future legislation.

The grand jury said it is hopeful that a countywide plan be worked out by a task force appointed to break the impasse.

The task force is composed of members of industry, the Silicon Valley Toxics Coalition and the cities.

Ted Smith, executive director of the toxics coalition, said many of the differences between his group and industry have been worked out, and that a new ordinance should be ready for adoption soon.

He said much of the cooperation is due to the fact that industry knew the grand jury was investigating the problem. He also attributed the cooperation to an incident earlier this year regarding the storage of silane gas at Liquid Carbonic Specialty Gas Corp. in San Carlos.

An explosion of the gas contaminated with nitrous oxide led to the death of three people in New Jersey in March. After that, officials of the San Carlos company exploded 55 cylinders of the gas in remote mudflats to protect against an accidental explosion.

Jacqueline Bogard, director of environmental programs for the Santa Clara County Manufacturing Group, disagreed that the San Carlos incident and the grand jury report had anything to do with industry working toward a solution to the impasse over the model ordinance.

"Our major complaint about the

previous ordinance was that there was very little input by industry," she said.

In a separate report, the grand jury's audit committee gave municipally owned utilities in Palo Alto and Santa Clara clean bills of health regarding the transfer of funds from the utilities to the cities' general funds.

The grand jury found no evidence that either city transfers funds from the utilities' coffers to alleviate deficits in the cities' general funds or in the accounts of other utilities.

Palo Alto for many years has transferred funds from its utilities to help balance the city's general fund budget. The city has equated the practice to returns being paid to shareholders of a publicly owned utility. In this case, however, the shareholders are the residents of Palo Alto.

Concerned about any possible legal challenges to the practice, city officials have kept the percentage of funds transferred equal to the rate of return allowed Pacific Gas and Electric Co. by the state Public Utilities Commission.

The grand jury said the investigation of the utilities was prompted by an unrelated complaint about the utilities from a private citizen.

Palo Alto owns and operates an electric utility, a water utility, a gas utility and a wastewater utility.

The city's charter requires that the funds from each utility be kept in separate accounts. Only surplus funds can be put into the general fund.

In fiscal year 1987-88, it is expected that about \$9 million will be transferred from the Palo Alto utilities to the city's general fund.

The grand jury found that the Palo Alto City Council and its staff are not violating the "letter or spirit" of the city charter.