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Accord possible on toxics proposal

Hazardous Materials

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SANTA CRUZ — Supporters and critics of a proposed hazardous materials ordinance may be approaching agreement on the measure's most controversial provision. Indications of a possible accord came Tuesday as the Board of Supervisors listened to two hours of testimony on the ordinance, which would put the county in the forefront of efforts to regulate the storage, use and disposal of toxic materials.

No action was expected on the ordinance Tuesday, and none was taken. But by the time the public hearing was finished, the outlines of a compromise had emerged. If the still-embryonic agreement takes hold, supervisors may be able to put the toxics-regulation issue behind them when they next take it up Nov. 26.

At the center of the controversy and the emerging compromise is a key provision requiring businesses to submit to "environmental audits." Under the audit requirement, firms would have to disclose not only what hazardous materials enter and leave their plants, but how they use them in their production processes.

The provision would empower the county to require companies which use toxics to alter their production methods — where feasible, and where county officials deem necessary — to reduce risks associated with their operations.

Industrial critics and the county's Hazardous Materials Advisory Commission have opposed the provision, which, they say, goes too far and would force firms to reveal closely guarded trade secrets.

They have urged the county to scrap the provision and adopt an ordinance modeled more closely on hazardous waste regulations already on the books in the Santa Clara Valley.

The apparent break in the political logjam over the ordinance came when county Health Officer George Wolfe told supervisors that the environmental audit provision could be softened.

As currently written, the ordinance — which has gone through three drafts — would require environmental audits whenever a firm applies for a permit to store and use hazardous materials.

But Wolfe suggested Tuesday that the ordinance might be changed to require audits at the county's discretion rather than in every case.

"The staff agrees that (audits) are not necessary on every application, but the county (should) be able to get this information when the county needs it," he said.

Wolfe said the audit provision was intended "simply to ensure that the county has all the necessary information in order to protect public health ... to the maximum ... from hazardous materials."

The health officer also acknowledged that better protection for industry trade secrets would be needed if environmental audits are routinely required by the county.

While Wolfe's concession was welcomed by some industry spokesmen at Tuesday's hearing, it was not enough for Santa Cruz Chamber of Commerce Manager Lionel Stoloff.

Stoloff called Wolfe's proposal a "step in the right direction." But he said it did not reflect "the major concerns of local businesses," which, he said, would still be overly burdened by the proposed ordinance.

He called the audit provision an "expensive, bureaucratic" measure which would not protect the public. He objected to ordinance requirements calling for installation of potentially expensive state-of-the-art devices to control and contain hazardous materials; decried the measure's lack of trade secret protection and accused the county of attempting to take over state regulatory functions.

"We are in favor of an ordinance (regulating toxic materials)," Stoloff said. "We want to protect the environment."

"But we remain strongly opposed to the way this ordinance proposes to achieve that protection."

Support for stringent toxics regulation was voiced Tuesday by Sierra Club spokesman Clayton Rost and Dr. John Midtling, a local physician and self-billed "expert on toxicology."

Rost called the environmental audit provision "essential to avoid accidental and clandestine toxic materials releases into our air and soil."

Midtling testified that the Santa Clara Valley ordinances which critics have urged as models for Santa Cruz County have not worked and "still (are) not working."

The doctor said the controversial environmental audit provision should be retained because the "potential public health hazard (of toxic materials) is of such magnitude that the community has the right to know what toxics are being used and how they are being used."

Accusing industrial critics of "hiding behind the facade of trade secrets," Midtling said the health officer should be given "sole authority" to enforce toxics regulations in order to "take the process out of the political arena."