

Memorandum

Date: January 10, 2014

To: Mayor Kitty Piercy and City Council Members

From: Eugene Toxics Board – Stephen Flanagan (Chair), Wendy Cecil, Sheena Gardner, Rick Nicol, Christine Zeller-Powell, Lisa Arkin, Randy Prince

Subject: **EUGENE TOXICS BOARD'S 2013 ANNUAL REPORT**

Following is the 2013 Annual Report of the Eugene Toxics Board, prepared and submitted pursuant to Section 6.2(B)(3) of the Eugene Charter Section 54 (Amendment IV).

Reporting Manufacturers

The total number of Eugene manufacturers reporting under the program remained at 30 in 2013. At the program's peak, in the late 1990s and early 2000s, the number of reporting businesses was above 50.

To be required to report under the Toxics Right-to-Know Program, a business must meet the following four criteria:

1. Be classified by the Standard Industrial Code as a manufacturer;
2. Operate a stationary facility within Eugene city limits;
3. Employ the equivalent of 10 or more full-time employees during the course of a calendar year; and
4. Have total inputs of at least 2,640 pounds of reportable hazardous substances in a calendar year.

Non-Reporting Manufacturers

Additionally, there are 42 businesses that pay a fee, that are not required to report under the Toxics Right-to-Know Program. These businesses use hazardous substances, but not enough (more than 2,640 pounds in a calendar year) to meet the requirement for having to report.

A 1999 decision by the Oregon Court of Appeals held that the City of Eugene had been assessing fees in violation of ORS 453.402(6), which precludes local governments from assessing fees on the basis of chemical quantity if their programs in any way duplicate the reporting requirements of the Oregon State Fire Marshal's Office. In response, the City Council adopted an Ordinance essentially abandoning the 2,640-pound threshold for purposes of fees, and requiring fees to be

paid by all businesses meeting the other three Toxics Right-to-Know Program criteria. This created a second tier of businesses that pay a fee, but are not required to report, while allowing the City to adhere as closely as possible to the intent of the voters as expressed in Eugene Charter Amendment IV.

Program Fees

The Eugene Toxics Right-to-Know Program is required by City Charter to be fully fee-supported. Fees are based on number of persons employed, with the City barred by state law from assessing fees based on chemical usage. Also, due to a state mandate that took effect in 2004, fees are capped at \$2,000 per entity. In 2013, the fee was \$82.69 per FTE up to the \$2,000 cap. Fees are expected to decrease slightly in 2014, with a lower number of businesses paying \$2,000.

Compliance Continues at Acceptable Level

In 2013, one business reported late: Oregon Ice Cream. This business was granted a one-week extension, and completed and submitted their reports by the extended deadline. As of April 5, 2013, all required 2012 reports had been received.

Fees were duly assessed and all were paid. It should be noted that arrangements were made with Green Gear Cycling, Inc. and Central Print & Reprographics to pay their fee in installments, and their accounts were paid in full as of August 22, 2013 and July 12, 2013, respectively.

Audits of Businesses Continue

The seventh three-year cycle of reporting audits is under way. Because the Charter requires that businesses be audited at random within each three-year cycle, some companies go nearly six years between audits while others may go only a few months. Naturally, audit findings and required corrections tend to be more significant for the former group.

As in past cycles, the most common audit findings are discrepancies between year-end inventories (or waste) for one year and beginning-year inventories for the next, as well as a normal number of simple reporting errors (reporting in the wrong category, etc.) and omissions. Occasionally an audit identifies a large number of required corrections. However, there have not yet been any cases involving suspicion of deliberate omissions or intentionally forged reports.

The Toxics Board has a policy that failure to respond to an audit in a timely fashion constitutes a violation of the Charter Amendment, and such violations (which are rare) are recorded and may render a company subject to fines.

Composite Data

Public access to all data reported, and a list of reporting businesses is available on the Toxics Program's website at www.eugene-or.gov/toxics. Data are also available in printed form at the Eugene Public Library as required by the City Charter.

The following tables show Composite Figures for All Reporting Companies Combined, and Totals Reported in Specific Output Categories, comparing data between years 2007, 2011 and 2012.

Composite Figures for All Reporting Companies Combined (quantities in pounds)

	2007		2011	2012	1-year change	5-year change
Number of reporting businesses	38		30	30	0.0%	-21.1%
Total outputs	24,150,330		9,429,496	13,445,924	42.6%	-44.3%
Transferred away in product or as waste	10,984,528		6,895,665	7,673,923	11.3%	-30.1%
Released to environment	1,165,619		647,341	699,101	8.0%	-40.0%

Among reporting businesses, the quantity of hazardous substances released to the environment as a percentage of total outputs has risen from 4.8 percent in 2007 to 5.2 percent in 2012.

Totals Reported in Specific Output Categories (quantities in pounds)

	2007		2011	2012	1-year change	5-year change
Shipped as waste	767,715		229,887	1,745,769	659.4%	127.4%
Emitted to air	970,167		416,186	476,646	14.5%	-50.9%
Discharged to sanitary sewage treatment	186,309		233,730	222,336	-4.9%	19.3%

Changes in reported totals for the output categories shown above could be due to changes in manufacturing processes or volume, improved environmental measures, reductions in the list of reporting entities, or other factors.

Website Analytics

The Toxics Board has now implemented the use of website analytics to track visits to the Toxics Program's webpages. Between January 1 and December 31, 2013, there were a total combine 1,163 visits to the Toxics Program's webpages: 608 visits to the Toxics Application pages (Data Reports and the List of Reportable Chemicals); and 555 to the Toxics Board and Program Information pages. Of the 1,163 total visits, 871 were based in Eugene, with the Oregon State System of Higher Education being the most common service provider used.

General Observations

In 2013, City Council appointed Wendy Cecil to Industry Position 1 and reappointed Christine Zeller-Powell to Advocacy Position 4 on the Toxics Board, both of which took effect in July. Additionally, City Council appointed Lisa Arkin to Advocacy Position 5 on the Toxics Board. We acknowledge with thanks the service of departing members Tom Carmicheal and Alison Guzman.

We also wish to acknowledge the work of Jo Eppli, the staff person for the Eugene Toxics Right-to-Know Program.

Finally, our thanks go to the Mayor and City Council for your continued interest in the Toxics Program and your support of citizens' right to know. If you have any questions or comments regarding this report please contact the Toxics Board at toxics@ci.eugene.or.us, or program staff at 541-682-7118.

jce/s