



**Fire & Emergency  
Medical Services**

Toxics Right-to-Know

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# MEMORANDUM

**Date:** January 24, 2013

**To:** Mayor Kitty Piercy and City Council Members

**From:** Eugene Toxics Board – Tom Carmicheal (Chair), Sheena Gardner, Rick Nicol, Christine Zeller-Powell, Alison Guzman, Randy Prince, Stephen Flanagan

**Subject:** **EUGENE TOXICS BOARD'S 2012 ANNUAL REPORT**

Following is the 2012 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).

## **Program Enhancements**

In 2012, the Toxics Board recommended and the City Council approved an increased budget to fund a 90 percent staffing level for the Toxics Program. As a result, program staff were able to provide more focused efforts on effectively managing the program. The following is a list of significant program enhancements:

- Increased transparency, understanding and awareness of the program.
- Improved working relationships between program staff and businesses in the program, businesses in the community, and with program stakeholders.
- Developed and implemented a Toxics Board member orientation process.
- Implemented the use of an Internet-based data entry reporting program.
- Implemented the use of electronic signatures and electronic means of communication.
- Streamlined the voluntary reporting process.
- Streamlined the invoicing process.
- Updated the Hazardous Substance Tracking Instructions.
  - Also implemented a schedule for ongoing review of the Hazardous Substance Tracking Instructions.

- Updated the List of Reportable Chemicals.
  - Also, implemented a schedule for ongoing review to maintain the List of Reportable Chemicals keeping it current with the applicable chemical lists at the Federal regulatory level.
- Updated the Citizen Guide, and reintroduced its use.
- Continued work with City's Information Services Division staff to improve data management systems.
- Reorganized the Toxics Board and Toxics Program's webpages to make the information more accessible.
- Implemented the use of website analytics.
- Began planning efforts with the Eugene Area Chamber of Commerce to conduct a joint informational work session for the business community to learn more about the program and to provide feedback on the program.
- Began discussions at the State and Federal levels to identify areas of collaboration and work towards making reporting less burdensome on businesses and avoid duplication.

### **Number of Reporting Manufacturers Decline**

The total number of Eugene manufacturers reporting under the program declined to 30 in 2012. 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 28 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 2012, the fee was \$79.00 per FTE up to the \$2,000 cap. Fees are expected to increase in 2013, with a larger number of businesses paying \$2,000.

### **Compliance Continues at Acceptable Level**

In 2012, two businesses reported late: A & K Development Company and Oregon Ice Cream. Both businesses were granted a one-week extension, and completed and submitted their reports by the extended deadline. As of April 8, 2012, all required 2011 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 July 24, 2012 and July 11, 2012, respectively.

### **Audits of Businesses Continue**

The sixth 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 has not yet been a case involving any 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](http://www.eugene-or.gov/toxics). Data are also available in printed form at the Eugene Public Library as required by the City Charter.

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

	2006		2010	2011	1-year change	5-year change
Number of reporting businesses	41		32	30	-6.3%	-26.8%
Total outputs	24,150,330		8,458,621	9,429,496	11.5%	-61.0%
Transferred away in product or as waste	10,984,528		6,066,485	6,895,665	13.7%	-37.2%
Released to environment	1,165,619		540,382	647,341	19.8%	-44.5%

Among reporting businesses, the quantity of hazardous substances released to the environment as a percentage of total outputs has risen from 4.83 percent in 2006 to 6.87 percent in 2011.

**Totals Reported in Specific Output Categories (quantities in pounds)**

	2006		2010	2011	1-year change	5-year change
Shipped as waste	767,715		172,965	229,887	32.9%	-70.1%
Emitted to air	970,167		441,608	413,186	-5.8%	-57.1%
Discharged to sanitary sewage treatment	186,309		98,558	233,730	137.1%	25.5%

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**

In July of 2012, the Toxics Board implemented the use of website analytics to track visits to the Toxics Program's webpages. Between July 1, 2012 and December 31, 2012, there were a total of 385 visits to the Toxics Program's webpages, with 160 of those visits from the Oregon State System of Higher Education, and 299 of those visits from computers and mobile devices based in Eugene.

**General Observations**

In February 2012, City Council appointed Rick Nicol to Position 3 (business representative of Western Pneumatics) to the Toxics Board. Additionally, City Council reappointed Rick Nicol to Position 3 (an industry position) and Randy Prince to Position 6 (an advocacy position) on the Toxics Board, both of which took effect in July.

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](mailto:toxics@ci.eugene.or.us), or program staff at 541-682-7118.

jce/s