



**Fire & Emergency
Medical Services**

Toxics Right-to-Know

City of Eugene
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MEMORANDUM

Date: January 17, 2012

To: Mayor Kitty Piercy and City Council Members

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

Subject: **EUGENE TOXICS BOARD 2011 ANNUAL REPORT**

Following is the 2011 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).

Number of Reporting Manufacturers Remain the Same

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.

The total number of Eugene manufacturers required to report under the program remained the same at 32 in 2011. At its peak, in the late 1990s and early 2000s, the number of reporting businesses was above 50.

The number of reporting businesses is one factor among many that influence the overall chemical usage figures reported to the public under the Toxics Right-to-Know Program. Other factors include production, processes, chemicals used, and environmental protection measures employed by the reporting businesses.

Non-Reporting Manufacturers

Additionally, there are 29 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 only 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 2011, the fee was \$53.34 per FTE up to the \$2,000 cap. Due to increased staffing costs, fees are expected to increase in 2012, with a larger number of businesses paying \$2,000.

Compliance Continues at Acceptable Level

In 2011, no businesses reported late.

As of April 1, 2011, all required 2010 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. to pay their fee in installments, and their account was paid in full as of November 1, 2011.

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 typical 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 adopted the 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

Full public access to all data reported, with an array of sorting capabilities, and a list of reporting businesses is available on the City's Internet site at 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)

| | 2005 | | 2009 | 2010 | 1-year change | 5-year change |
|---|------------|--|-----------|-----------|---------------|---------------|
| Number of reporting businesses | 40 | | 34 | 32 | -5.9% | -20.0% |
| Total outputs | 20,012,864 | | 8,378,453 | 8,462,014 | 1.0% | -57.7% |
| Transferred away in product or as waste | 10,426,834 | | 5,795,721 | 6,066,363 | 4.7% | -41.8% |
| Released to environment | 1,764,686 | | 447,856 | 544,190 | 21.5% | -69.2% |

Among reporting businesses, the quantity of hazardous substances released to the environment as a percentage of total outputs has dropped from 8.82 percent in 2005 to 6.43 percent in 2010.

Totals Reported in Specific Output Categories (quantities in pounds)

| | 2005 | | 2009 | 2010 | 1-year change | 5-year change |
|---|-----------|--|---------|---------|---------------|---------------|
| Shipped as waste | 791,708 | | 152,359 | 172,926 | 13.5% | -78.2% |
| Emitted to air | 1,013,266 | | 357,949 | 445,416 | 24.4% | -56.0% |
| Discharged to sanitary sewage treatment | 751,358 | | 89,763 | 98,558 | 9.8% | -86.9% |

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.

General Observations

In 2011, City Council reappointed Stephen Flanagan to the neutral position on the Toxics Board. Additionally, City Council appointed Tom Carmicheal (business representative of Lanz Cabinet Shop, Inc.), Sheena Gardner (business representative of Willamette Valley Co.), Christine Zeller-Powell (right-to-know advocate) and Alison Guzman (right-to-know advocate) to the Toxics Board. We wish to acknowledge with thanks the service of departing members Dave Doll, Diana Bollenbaugh, Holly Jacobson and Cynthia Kokis.

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 Council for your continued interest in this 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