

MINUTES

Eugene Toxics Board
Saul Conference Room--The Atrium Building--99 West 10th Avenue

November 17, 1999
3 p.m.

PRESENT: Cathy Verrét, Chair; Mary O'Brien, Steve Morgan, Madronna Holden, Mike Friese, Steve Johnson, members; Glen Potter, Fire & EMS Department; Jerry Lidz, City Attorney; Steve Chipman, Information Services Division; Terry Connolly, Ken Luse, Clyde Carson, Kiri Sailiata, Andy Poynter, Diane Henhelz, guests.

ABSENT: Don Upson, member

Ms. Verrét called the meeting to order.

I. PUBLIC COMMENT

There was no public comment.

II. 2000 FEE OPTIONS

Mr. Potter stated that the issue of year 2000 fee options was referred back to the Toxics Board by the City Council with a request that there be further discussion about fee factors other than number of employees. He said that City Council was emphatic that there would not be General Fund support for this program.

The board held a lengthy discussion about other fee options. Included were assessments based on number of square feet of manufacturing space, total floor space, percentage of payroll assessment, garbage output, SIC codes which have the highest toxic releases, and base fees with additional assessments. The board decided that without the ability to assess businesses based on chemical quantities, the employee basis for fee assessment was the most fair. Mr. Lidz suggested board members attend the next City Council meeting when this issue would again be discussed.

III. APPROVAL OF AGENDA

The agenda was approved as submitted. It was announced that Mr. Chipman was expected at about 4 p.m. for a demonstration of the new reporting software.

IV. APPROVAL OF MINUTES

Mr. Potter noted that the next meeting would be December 8, not December 11. Without objection, the minutes were approved as corrected.

V. PUBLIC HEARING— PROPOSED FINE SCHEDULE

The public hearing was opened by Ms. Verrét. No public testimony was presented. The public hearing was closed. Board members had before them an exhibit, **Toxics Right-To-Know Program Fine Schedule**, dated November 1999.

Mr. Potter related e-mailed comments from Mr. Upson, who was unable to attend the meeting.

The board concurred with the comments and agreed to omit the word “omission” under “Gross inaccuracies/~~omissions~~”. The board further agreed to add the word “potential” before the word “penalty” in the “Likely Outcome” column corresponding to “Gross inaccuracies.”

Ms. Holden also noted a typographical error on page 2 of the fine schedule, under C., “. . . the following shall *by be* considered. . . .”

In response to questions from board members, Mr. Potter spoke about past violations and inadvertent omissions in reporting. Mr. Potter stated that he had been conducting audits in accordance with the board’s policy of providing information and encouraging compliance, but that he would bring any intentional violations to the board’s attention.

Mr. Johnson moved, seconded by Mr. Friese, to adopt the fine schedule, as amended. The motion passed unanimously.

VI. STAFF REPORT

Mr. Friese asked for an update on the recent court decision. Mr. Potter reported that attorneys for the parties are in the process of negotiating a declaratory judgment. The declaratory judgment will probably have language striking down certain passages in the charter amendment, Mr. Potter said. It was not clear whether the judgment would address the issue of refunds of fees previously paid.

Board members also discussed the de-listing of pesticides pursuant to the court decision, and noted that the handbook may need to be reworked in this area. The board requested an opinion from the City Attorney on this matter.

The meeting recessed at 4 p.m. and reconvened at 4:10.

VII. SOFTWARE UPDATE

Mr. Chipman, Information Services Division, introduced the presentation of Version 2.0 of the substance reporting system. Mr. Chipman noted that database information will be pre-loaded. He noted that this was a demonstration of progress to date.

Mr. Friese suggested that the program automatically transfer the 1998 year-end inventory quantities to the 1999 program as beginning inventories. Some obstacles to this feature were identified in discussion, however, and there was no consensus to proceed. The obstacles included the time and cost of programming the new feature, and the fact that the lists of reportable substances will be different for the two years. Characteristic substances also will be reported differently for 1999.

Ms. O'Brien requested that a "SEARCH" button be added to the public web site, to make it more user-friendly.

Mr. Chipman commented that he would still like to add a button for "NEW" records. Board members concurred that this would be advantageous, if easily accomplished.

Mr. Chipman

also noted that changes would be outlined in the instruction manual when the new release is distributed.

Ms. O'Brien suggested that current data be retained for historical purposes, without making changes to include current reporting detail. Board members concurred.

The board agreed that no further demonstrations of this software will be needed unless significant changes are made. The program will be distributed to reporting businesses late this year or early next year.

VIII. NEW CHEMICALS

- A. Identified characteristic chemicals reported
- B. New TRI chemicals and PBTs — possible ordinance

The board reviewed a list of chemicals reported as characteristic for 1998, for which CAS numbers were available.

The board determined that two chemicals listed should not be on the list: 2 propoxyethanol (2807-30-9) and butoxyethanol (111-76-2), as they were glycol ethers and as such were already covered under existing category N230.

The board discussion whether to add these chemicals to the current list. Mr. Morgan noted that different MSDS sheets may list different flash points for certain chemicals, so that one company

may have information indicating that a particular chemical is reportable, while another company may have information indicating that it is not. Ms. O'Brien agreed to have a chemist review the list and to report back to the board. The board tentatively decided that chemicals identified as definitely reportable will be added to the City's electronic list (in the reporting software). Further, a page listing these chemicals and explaining their status will be included in the 2000 tracking instructions booklet and the same information will be mailed to all local businesses in the manufacturing SIC codes.

Ms. O'Brien distributed a document entitled **Chemicals, Compounds, & Persistent Bioaccumulative Toxic Chemicals (PBTs) EPA is adding to Toxic Reduction Inventory (TRI) list and/or Lowering Thresholds**, a three-page matrix document. Ms. O'Brien noted that a member of Citizens for Public Accountability reviewed the data and developed this chart at her request. Members agreed to add this to the agenda for the December 8 meeting.

IX. 2000 TRACKING INSTRUCTIONS

Mr. Potter reviewed the draft **2000 Hazardous Substance Tracking Instructions** document.

Ms. O'Brien suggested language changes on page 3 under "Reporting of Pesticides: The Eugene Toxics Right-To-Know Program no longer requires reporting of pesticides (i.e., substances listed *only* under the Federal Insecticide, Fungicide, and Rodenticide Act.) *Pesticide ingredients listed as hazardous substances in other laws (e.g., CERCLA, RCRA) must be reported.*"

A question was raised about whether the language could be more general to include "~~Pesticide ingredients~~ **Ingredients** listed as hazardous substances in other laws (e.g., CERCLA, RCRA) must be reported." This language will be finalized based on the City Attorney's advice concerning the de-listing of pesticides pursuant to the Court of Appeals decision.

Mr. Potter noted the need for an additional inclusion under the "Important Notes" section: "*Some companies have reported some characteristic substances which now appear on the list of reportable chemicals that reporting businesses will be sent electronically. These also appear on page ____.*"

Ms. O'Brien also asked to amend the last sentence on page 3 to read, ". . . Quantity Produced at the Facility, and the *appropriate* outputs of the new chemical would be reported ~~as appropriate.~~"

Ms. O'Brien asked Mr. Potter to review the bottom of page 6 and top of page 7 and to mention the newly listed characteristic substances as appropriate.

Ms. O'Brien suggested that new questions and/or answers in the Q&A section be highlighted.

Mr. Potter also noted that Mr. Upson had asked that on page 16, in the example under "G. Use of MSDS Information," the last sentence be amended to read, ". . . and *if the CAS number is listed*, must report that as if it had purchased 100 pounds of the contaminant as a pure substance." The board concurred with this suggestion.

Mr. Potter noted that the remaining work on the handbook included the comprehensive chemical

list and sample forms. The board discussed the timing of the distribution of the handbook. Mr. Potter suggested that finalization and distribution of the handbook take precedence over finalization and distribution of the reporting software and instructions. He agreed to make every effort to distribute the handbook prior to the end of the calendar year; the reporting software and instructions might then be distributed early in the year 2000. The board concurred.

X. RECRUITMENT OF NEW MEMBER(S)

Mr. Potter reported that Ms. O'Brien would be applying for reappointment to the board, while Mr. Upson would not. He indicated that he would keep the board apprised of steps taken by the City Council in the appointment process, and he noted further that anyone is welcome to offer input to the City Council during the process.

X. SCHEDULE FUTURE MEETINGS

The next meeting of the board will be December 8 at 3 p.m. Future meetings will be scheduled during that meeting.

The meeting was adjourned at 5:40 p.m.

(Recorded by Kris Aanderud)
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