

## MINUTES

Eugene Toxics Board  
Classroom #2, First Floor  
Eugene Emergency Services Center  
1705 West Second Avenue, Eugene

September 20, 2012  
3:30 PM

**PRESENT:** Tom Carmicheal, Chair; Sheena Gardner, Alison Guzman, Rick Nicol, Christine Zeller-Powell (arrived at 3:40 PM), members; Joann Eppli, Fire and Emergency Medical Services staff; Ben Sappington, Eugene Area Chamber of Commerce, guest.

**ABSENT:** Stephen Flanagan, Randall Prince.

Mr. Carmicheal called the meeting of the Toxics Board to order at 3:30 PM.

### **I. INTRODUCTIONS/APPROVAL OF AGENDA**

Those present introduced themselves.

Ms. Eppli announced Mr. Prince and Mr. Flanagan would not be attending today's meeting.

There were no changes to the agenda.

### **II. PUBLIC COMMENT**

There was no one who wished to offer public comment.

### **III. APPROVAL OF MEETING MINUTES—April 3, 2012**

Ms. Gardner, seconded by Mr. Nicol, moved that the April 3, 2012 minutes be approved as submitted. The motion passed unanimously.

### **IV. STAFF REPORT**

Ms. Eppli provided the staff report. She reported that her former supervisor, Mark Walker, had retired. She now reports to the Fire Marshal for the City of Eugene and City of Springfield. He plans to attend a future meeting.

Ms. Eppli stated she had sent the following memorandums to Toxics Board members:

- Toxics Program Audit Procedures.
- 2011 Toxics Program Reporting Update.

- Two memorandums about appointments, reappointments, the new chair and vice chair.
- Two memorandums related to the closure of Forbo Adhesives due to their acquisition by a company that decided to close the facility in Eugene.
- The Fiscal Year 2013 (FY13) Toxics Right-to-Know invoices.
- New Toxics Program website review.
- Additional changes to the Toxics Program website related to the reportable chemicals list.
- Holt Manufacturing relocating to Veneta, Oregon. She noted since the last Toxics Board meeting, one reporting company and one fee only company had left Eugene.

Mr. Nichols asked how Ms. Eppli ensured all companies that were required to report actually reported.

Ms. Eppli stated that was a topic of discussion for a future Toxics Board meeting. A process for that had not yet been identified, but had been identified as something that needs to be done. She added website analytics would also be discussed at a future meeting. She has not done any site visits, but did complete several audits, which are done on an ongoing basis. No issues had been identified through the audits.

## **V. TOXICS BOARD MEMBERSHIP UPDATE**

Ms. Eppli reported that Mr. Nicol had been appointed to Position 3 and Mr. Prince had been reappointed to Position 6. Mr. Carmicheal was the Board Chair and Mr. Flanagan was the Vice Chair effective July 1, 2012. She had sent out updated Toxics Board rosters. She asked if any Toxics Board members had attended the recent Board, Commission and Committee member orientation training. There were no affirmative responses.

## **VI. HAZARDOUS SUBSTANCE TRACKING INSTRUCTIONS REVIEW**

Ms. Zeller-Powell arrived at 3:40 PM.

- Updated Hazardous Substance Tracking Instructions

Ms. Eppli said she was scheduled to present this information to the City Council on November 19, 2012 to report on changes to the Hazardous Substance Tracking Instructions and the List of Reportable Chemicals. She needs final recommendations from Toxics Board members prior to November 12, 2012. The last update to the tracking instructions was in 2003. She had met with a small work group to develop improvements which recommended reorganizing and streamlining the document to make it more user friendly and clear on how to do reporting for the program. There is also a recommendation to clarify reporting of characteristic substances, metals and gases. There are no significant proposals for changes to the document. She said Toxics Board members could share information electronically, but all decisions needed to take place at a public meeting to ensure transparency and meet public records law requirements.

Mr. Carmicheal suggested Toxics Board members submit proposed changes to Ms. Eppli by October 17, 2012 after which the Toxics Board could meet in late October to review those proposed changes.

- Reporting of Metals and Gases

Ms. Eppli said this issue was raised by Andy Pointer in an email dated March 29, 2012. He was concerned about how dust fumes, filings and grindings were reported. He also raised concerns with the reporting of inert gases and other flammable gases. She directed Toxics Board members to the list of flammable gases that companies reported on in her September 7, 2012 memorandum. She said the Hazardous Substance Tracking Instructions did not give good guidance for reporting on those substances. She was interested to hear if reporting businesses had concerns or thought there should be changes.

Ms. Gardner said this list was based on the regulatory agencies' definitions, which differed from agency to agency. For example, she was not aware of another regulatory agency that identified flashpoint as an identifying characteristic. She offered to research the issue and report back to the Toxics Board.

Mr. Carmicheal said this did not apply to any work done by his company. He questioned why it was agreed upon on April 17, 2001, that if oxygen was pressurized, it needed to be reported.

Ms. Eppli said oxygen did not fall under any programs lists encompassed by the Eugene Toxics Right-to-Know Program.

Mr. Carmicheal asserted there was no reason to report it and it should not be on the list. He stated it should be removed from the City's list.

Mr. Nicol agreed with Mr. Carmicheal.

Ms. Guzman felt the Toxics Board should seek a second opinion and discuss the issue further.

Ms. Gardner said this was an area where there was duplication. She did not believe there was a requirement to report compressed gas simply because it was compressed. It needed to be identified if it was a reportable chemical. She agreed to do research on the issue and report back to the Toxics Board.

Mr. Carmicheal noted creosote was not a reportable chemical.

Ms. Guzman did not want to eliminate all potential filters, noting creosote could be added in the future.

Ms. Eppli asserted the Toxics Board was limited to requiring a chemical to be reportable only if it was on the federal lists shown in the Charter Amendment. She noted if creosote was not listed on any applicable federal list, the City could not legally add it to its program.

Ms. Eppli suggested that if Ms. Garner and Ms. Guzman did some independent research, they should email their findings to Ms. Eppli and she would distribute the information to all Toxics Board members.

Mr. Carmicheal said the topic would be discussed at the October Toxics Board meeting.

## **VII. LIST OF REPORTABLE CHEMICALS REVIEW**

Ms. Eppli directed Toxics Board members to the staff memorandum dated September 7, 2012 and

the List of Reportable Chemicals. She said due to the Oregon Court of Appeals ruling on the City's lawsuit about the program, the City was could longer to require businesses to report on chemicals that were regulated by the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) only. There were three chemicals on the Eugene Toxics Right0-to-Know Program list that should be removed.

At the request of the Toxics Board, Ms. Eppli had compared the original 1997 list and the current list for discrepancies. She also compared the information to the current applicable federal programs lists, and included missing data from those federal lists into the City's list.

In response to Ms. Zeller-Powell, Ms. Eppli said it seemed there had been some changes to the City's list, but there had only been one formal process, which did not include all of the changes previously made. Some of her proposals were to correct that.

Ms. Eppli asked Toxics Board members to read the documents before the next Toxics Board meeting at which time the Toxics Board would make a decision on revisions to the list of reportable chemicals. She would include today's discussion in decision points for the next Toxics Board meeting.

Ms. Eppli directed Toxics Board members to an email dated June 28, 2012 from Tom Carmicheal. She said the Toxics Board had asked reporting companies to help the Toxics Board keep its List of Reportable Chemicals comprehensive. If businesses had any chemicals that met the definition of characteristic substances in 40 CFR 261 that they felt should be reported on, businesses should report on those chemicals. They would be added to the list, which would be reported as characteristic chemicals, and all companies could determine if it was applicable for them to report on those chemicals. If it was found in an audit that a company had those chemicals and had failed to report them, they would be required to provide documentation on why they did not report those chemicals.

Mr. Carmicheal said a mandatory review should be required before a business was required to either report a chemical or document why it was not reported.

Ms. Gardner agreed a review process should be required to put chemicals on the list.

Ms. Eppli directed Toxics Board members to page 20 of the *Hazardous Substance Tracking Instructions* document, which included the proposed language for characteristic chemicals that had been approved by the City Attorney to legally cover the City of Eugene. She noted there was no review process prior to sending the name of a chemical for inclusion on the list of reportable chemicals. This needed a review and recommendation from the Toxics Board.

Ms. Eppli directed Toxics Board members to the September 7, 2012 memorandum regarding Notification of Lower Reporting Thresholds for Certain Chemicals under EPCRA Section 313. She asked the Toxics Board to help her develop a regular timed review process for the Hazardous Substance Tracking Instructions and List of Reportable Chemicals, updating the list would be simplified to a one page memorandum with a two page attachment. In July 2011, the EPA updated its List of Lists. Ms. Gardner had sent the link to the List of Lists via email to Toxics Board members. It was also included in information sent to Toxics Board members by Ms. Eppli.

Mr. Carmicheal proposed that the Toxics Board accept the changes to the chemicals list prepared by Ms. Eppli with the exception of oxygen, which would be reviewed at the next Toxics Board meeting.

Ms. Guzman wanted to review the amounts of chemicals prior to making a decision to ensure that chemicals that could be reported at thousands of pounds annually would not be deleted.

Mr. Carmicheal asked why it should be reported if it was not legally required to do so.

Ms. Guzman understood Mr. Carmicheal's point and agreed with his proposal to proceed.

Ms. Gardner, seconded by Mr. Carmicheal, moved to accept the proposed changes to the chemicals list with the exception of oxygen. The motion passed unanimously.

Ms. Eppli said she would bring the proposed revised language to the next Toxics Board meeting for review and approval. The Toxics Board would also discuss and make a decision on the oxygen issue.

#### **VIII. SCHEDULE NEXT MEETING/FUTURE FOCUS DISCUSSIONS**

The next meeting was scheduled for October 24, 2012. Changes for the documents reviewed today should be forwarded to Ms. Eppli by October 17, 2012. Ms. Eppli agreed to send an email to all Toxics Board members to advise Mr. Prince and Mr. Flanagan of today's Toxics Board action.

The meeting adjourned at 4:40 PM.

*(Recorded by Linda Henry)*