

## MINUTES

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

October 24, 2012  
3:30 PM

**PRESENT:** Tom Carmicheal, Chair; Alison Guzman, Rick Nicol, Randall Prince, Christine Zeller-Powell, members; Joann Eppli, Fire and Emergency Services staff; Ken Luse, Andy Poynter, Ben Sappington, guests.

**ABSENT:** Sheena Gardner, Stephen Flanagan.

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

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

Those present introduced themselves.

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—September 20, 2012**

Noting no changes to the September 20, 2012 minutes, Mr. Carmicheal deemed them approved as submitted.

### **IV. STAFF REPORT**

Ms. Eppli stated Ms. Gardner was ill and Mr. Flanagan was traveling, and would not attend today's Toxics Board meeting.

Ms. Eppli provided the staff report. She stated Ms. Gardner had not sent information to Board members on oxygen because she was unable to locate strong supporting evidence of why oxygen should stay on the reportable chemicals list. Ms. Gardner supported all of the proposed changes.

Ms. Eppli noted that the City of Eugene orientation for board members had been cancelled and would be rescheduled. She had not done any site visits or audits since the last Board meeting.

## V. HAZARDOUS SUBSTANCE TRACKING INSTRUCTIONS REVIEW

- *Updated Hazardous Substance Tracking Instructions*

Ms. Eppli distributed the following documents:

- A) A memorandum dated September 7, 2012, from Ms. Eppli to the Eugene Toxics Board, subject *Eugene Toxics Right-to-Know Program Hazardous Substance Tracking Instructions Review*. She noted the full document previously distributed to Board members.
- B) An email from Mr. Carmicheal dated October 17, 2012, subject *Preparation for Next Toxics Board Meeting*.
- C) An email from Ms. Gardner dated September 22, 2012, subject *Hazardous Substance Tracking Instructions Editing Suggestions for review by the Board*.

Ms. Eppli directed Board members to the changes iterated in document A), page 2.

Mr. Carmicheal, seconded by Mr. Nicol, moved that the Toxics Board recommend that the City Council adopt the changes listed in the document *Eugene Toxics Right-to-Know Program Hazardous Substance Tracking Instructions Review*. The motion passed unanimously, 5:0.

Ms. Eppli directed Board members to the changes iterated in document A), *Eugene Toxics Right-to-Know Program Hazardous Substance Tracking Instructions Review*, page 3, paragraph 2, related to SARA 302 and SARA 313. She directed Board members to a document entitled: *Title III Fact Sheet—Emergency Planning and Community Right-to-Know* which provided information from the U.S. Environmental Protection Agency (EPA) on the *Superfund Amendments and Reauthorization Act (SARA) of 1986* for additional information. She asked for direction from the Board on maintaining the naming standard for EPCRA Section 302 and Section 313 in the *Eugene Toxics Right-to-Know Program Hazardous Substance Tracking Instructions Review* or changing the naming standard to EPCRA 302 and EPCRA 313. She said both standards were used by industry and understood by the industry.

Mr. Carmicheal, seconded by Mr. Nicol, moved that the Toxics Board recommend that the City Council continue to use SARA Section 302 and Section 313 in the *Eugene Toxics Right-to-Know Program Hazardous Substance Tracking Instructions Review*. The motion passed unanimously, 5:0.

Ms. Eppli directed Board members to the changes iterated in document A), page 3, paragraph 3, outlined a process and schedule for periodic Toxics Board review of the *Hazardous Substance Tracking Instructions* and submit to City Council for adoption via Ordinance.

Ms. Zeller-Powell, seconded by Mr. Carmicheal, moved that the Toxics Board recommend that the City Council schedule a periodic review every five years, or more often as needed. The motion passed unanimously, 5:0.

Ms. Eppli directed Board members to the changes iterated in document A), page 3, paragraph 5, “Characteristic” substances as described in 40 CFR 261, Subpart C (Appendix D), and the handout entitled *DRAFT PROPOSED CHARACTERISTIC CHEMICALS LANGUAGE—October*

24, 2012.

Mr. Carmicheal, seconded by Ms. Zeller-Powell, moved that the Toxics Board recommend that the City Council adopt the language proposed in the *DRAFT PROPOSED CHARACTERISTIC CHEMICALS LANGUAGE—October 24, 2012*.

Ms. Eppli distributed a document entitled *Eugene Toxics Right to Know Program—List of Reportable Hazardous Substances—Characteristic Chemicals Added by Reporting Businesses*. She said the list contained all 222 characteristic chemicals had been submitted by companies since the implementation of the program.

Ms. Zeller-Powell asked if there was a process for members of the public to petition for addition of chemicals to the list.

Ms. Eppli said for the most part, the required chemicals were listed in the five federal regulatory programs, and reporting businesses were the only entities that could submit chemicals to be considered for including in the list if the reporting businesses believed those chemicals met the definition of a characteristic chemical as defined in 40 CFR 261.

The motion passed unanimously, 5:0.

Ms. Eppli directed Board members to the changes iterated in document C) *Hazardous Substance Tracking Instructions Editing Suggestions for review by the Board*, page 4, section c. “Page 85”. She also directed Board members to document A) *Eugene Toxics Right-to-Know Program Hazardous Substance Tracking Instructions Review*, paragraph 2, “Page 85”. She reviewed the proposed language for Appendix F, to “add an introductory paragraph that encourages businesses to submit additional questions to the Toxics Board by contacting Toxics Program staff. As questions are submitted and answered by the Toxics Board, those questions and answers will be included in Appendix F.”

Mr. Carmicheal noted consensus to recommend the City Council adopt the proposed change for Appendix F as iterated on page 4, section c. “Page 85”.

Ms. Eppli directed Board members to the changes iterated in document C) *Hazardous Substance Tracking Instructions Editing Suggestions for review by the Board*, page 4, section c. “Page 93”. The proposed language read: “In appendix F in the introduction for Section C, revise language to be consistent with the section on characteristic substances on Page 20.”

Mr. Carmicheal, seconded by Ms. Guzman, moved that the Toxics Board recommend that the City Council adopt the language proposed in C) *Hazardous Substance Tracking Instructions Editing Suggestions for review by the Board*, page 4, section c. “Page 93”. The motion passed unanimously, 5:0.

Ms. Eppli directed Board members to the changes iterated in document C) *Hazardous Substance Tracking Instructions Editing Suggestions for review by the Board*, page 4, section c. “Page 94”. The proposed language read: “Remove or revise the last sentence of last answer to Question 26 which states, ‘In the future, the Toxics Board will develop a list of reportable characteristic substances.’ ”

Mr. Carmicheal, seconded by Ms. Zeller-Powell, moved that the Toxics Board recommend that the City Council adopt the language proposed in C) *Hazardous Substance Tracking Instructions Editing Suggestions for review by the Board*, page 4, section c. “Page 94”. The motion passed unanimously, 5:0.

Ms. Eppli directed Board members to the changes iterated in document C) *Hazardous Substance Tracking Instructions Editing Suggestions for review by the Board*, page 4, section c. “Page 98”. The proposed language read: “Section E in the second paragraph of the answer to Question 38, revise language to be consistent with the section on characteristic substances on Page 20.”

Mr. Carmicheal, seconded by Mr. Prince, moved that the Toxics Board recommend that the City Council adopt the language proposed in C) *Hazardous Substance Tracking Instructions Editing Suggestions for review by the Board*, page 4, section c. “Page 98”. The motion passed unanimously, 5:0.

Ms. Eppli directed Board members to the redlined version of the document entitled *Hazardous Substance Tracking Instructions*, page 98, Question 38. She proposed revising the language to direct people to the section on Characteristic Chemicals.

Mr. Carmicheal, seconded by Mr. Prince, moved that the Toxics Board recommend that the City Council adopt the language proposed for *Hazardous Substance Tracking Instructions*, page 98, Question 38, revising the language to direct people to the section on Characteristic Chemicals. The motion passed unanimously, 5:0.

Ms. Eppli directed Board members to the redlined version of the document entitled *Hazardous Substance Tracking Instructions*, page 24, Item 2, related to threshold limits. She also directed Board members to A) *Hazardous Substance Tracking Instructions Editing Suggestions for review by the Board*, page 4, item 2. A. “Page 24”, which contained a table that broke down the threshold requirements. She recommended Board members recommend including the table in the *Hazardous Substance Tracking Instructions*.

Mr. Carmicheal, seconded by Mr. Prince, moved that the Toxics Board recommend that the City Council adopt the table proposed for *Hazardous Substance Tracking Instructions*, page 4, item 2. A. “Page 24”. The motion passed unanimously, 5:0.

Mr. Luse questioned the Board’s adherence to ***Robert’s Rules of Order***.

Mr. Carmicheal reviewed each of the motions and each motion was voted on individually.

- ***Reporting of Metals and Gases***

Ms. Guzman stated she agreed with Ms. Gardner that there was not strong supporting evidence of why oxygen should stay on the reportable chemicals list.

Ms. Eppli distributed a memorandum dated September 7, 2012, from Ms. Eppli to the Eugene Toxics Board, subject *Eugene Toxics Right-to-Know Program Reporting of Metals and Gases*. The group reviewed the process that had been used to add oxygen to the list of reportable metals

and gases. She said oxygen had been added to the list by a reporting business that was attempting to comply with the Ordinance and Board direction provided in the Hazardous Substance Tracking Instructions. She noted a previous Board had discussed officially adding oxygen to the list with a notation “only if pressurized”, but the recommendation had not been followed through, and it remained simply oxygen on the list. She reviewed Attachment 2. *Email from Andy Poynter dated March 29, 2012* related to his comments on dust fumes, filings and grindings calculations for reporting, oxygen and inert gases, and acetylene and other flammable gases.

Ms. Eppli asked for direction from the Toxics Board on whether the metals and gases listed on her memorandum should continue to be reportable, and if reporting requirements should be clarified for those chemicals. In response to Mr. Prince, she reiterated there were 222 chemicals on the list that had been added by reporting businesses since the program began. She asked for direction from the Board on whether additional information should be included in the hazardous substance tracking instructions or on the public website.

Ms. Zeller-Powell, seconded by Mr. Carmicheal, moved that dusts fumes and grindings of articles made of metals listed in Ms. Eppli’s September 7, 2012 memorandum *Eugene Toxics Right-to-Know Program Reporting of Metals and Gases* be reported at five percent of the scrap value; that information to be included in the instructions and a footnote included in the reported data; and, a request in the reporting instructions to reporting businesses that they contact Toxics Board staff if they could offer a better method of calculating reportable metals. The motion passed 4:1, with Mr. Carmicheal, Ms. Guzman, Mr. Nicol and Ms. Zeller-Powell voting in favor, and Mr. Prince voting against the motion.

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

- Reporting of Oxygen

Ms. Eppli reiterated Ms. Gardner’s assertion that she was unable to locate strong supporting evidence of why oxygen should stay on the reportable chemicals list.

Mr. Poynter said oxygen was on the list because a reporting business had included it in an attempt to comply with the Ordinance. It could be argued no compressed gas should be on the list because they were not comprised of any chemicals included in the database.

Mr. Carmicheal, seconded by Mr. Nicol, moved that oxygen be removed from the list of reportable chemicals. The motion passed unanimously, 5:0.

Ms. Eppli said she would draft a memorandum to the City Council and the City Manager summarizing the Toxics Board’s recommendations on the items discussed since April. She would forward the draft to Board members for review. The City Council was scheduled to conduct a public hearing on November 19, 2012 and take action on November 26, 2012.

## **VII. SCHEDULE NEXT MEETING/FUTURE AGENDA ITEMS**

Ms. Eppli said the agenda for the next meeting would include a discussion on the Fiscal Year

2014 recommended budget and related annual fee. She would provide preliminary information for Board members in early November.

Mr. Luse asked to receive information distributed to Board members.

Mr. Prince, seconded by Mr. Carmicheal, moved to create an interested parties list for the Toxics Board. The motion passed unanimously, 5:0.

The next meeting was scheduled for November 28, 2012, at 3:30 PM.

The meeting adjourned at 5:15 PM.

*(Recorded by Linda Henry)*