

# EUGENE CITY COUNCIL

## AGENDA ITEM SUMMARY



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Action: An Ordinance Adopting Amended Hazardous Substance Tracking Instructions for Reports Due beginning April 1, 2014, and Removing a Hazardous Substance from the List of Reportable Chemicals

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Meeting Date: October 28, 2013  
Department: Fire  
[www.eugene-or.gov](http://www.eugene-or.gov)

Agenda Item Number: 3  
Staff Contact: Jo Eppli  
Contact Telephone Number: 541-682-7118

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### ISSUE STATEMENT

The Toxics Board recommends adoption of an ordinance amending the *Hazardous Substance Tracking Instructions* for reports due beginning April 1, 2014, and removing a hazardous substance from the List of Reportable Chemicals for the Eugene Toxics Right-to-Know Program.

### BACKGROUND

The Eugene Toxics Right-to-Know Program was created in 1996, by an amendment to the Eugene Charter that requires certain manufacturers to provide information to the public concerning the use and disposition of federally-listed hazardous substances. The Charter Amendment provides in part that hazardous substance users in Eugene shall file an annual materials balance report that lists inputs and outputs of all hazardous substances obtained, used or generated. As part of the annual reporting process, the Toxics Board issues guidance to businesses required to report with a handbook entitled *Hazardous Substance Tracking Instructions*, and maintains a corresponding List of Reportable Chemicals. The *Hazardous Substance Tracking Instructions* include text of the Charter Amendment, and detailed instructions for tracking and reporting chemicals.

Beginning in 1998, the City Council has adopted the *Hazardous Substance Tracking Instructions* via ordinance. In 2001, the City Council adopted an ordinance for the Hazardous Substance Tracking Instructions that included a provision making council adoption effective for subsequent years, until and unless City Council adopts further revisions. The City Council last adopted the *Hazardous Substance Tracking Instructions* by Ordinance No. 20499 on November 26, 2012.

Pursuant to Section 54, Article III, Section 3 of the Eugene Charter, the Eugene Toxics Right-to-Know Program requires reporting of chemicals that are federally listed in Sections 302 and 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA); the Clean Air Act (CAA); the Clean Water Act (CWA); the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); and the Resource Conservation and Recovery Act (RCRA). Chemicals meeting federal definitions of hazardous waste for the characteristics of toxicity, reactivity, corrosivity, or

ignitability are also reportable, even if they are not being disposed of as hazardous waste. Due to the 1999 Oregon Court of Appeals ruling, the chemicals listed under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and those chemicals defined as pesticides under ORS 634.006(8) are no longer reportable, while pesticide ingredients listed as hazardous substances on the other federal regulatory lists cited in Section 54, Article III, Section 3 of the Eugene Charter are reportable.

The List of Reportable Chemicals currently includes one hazardous substance that is regulated only by FIFRA: HAE (CAS # 034375-28-5). In order to comply with the 1999 Oregon Court of Appeals Ruling, this hazardous substance should be removed from the List of Reportable Chemicals.

The Toxics Board has reviewed the *Hazardous Substance Tracking Instructions* and the List of Reportable Chemicals, and recommends that the City Council adopt an ordinance to accomplish the following:

1. Revise the *Hazardous Substance Tracking Instructions* to clarify the exclusion of reporting substances used only for research and development purposes.
2. Change the reference to the List of Reportable Chemicals in the *Hazardous Substance Tracking Instructions* to reflect that the two previously separate static and searchable chemical lists have been merged.
3. Change the reference of Material Safety Data Sheets (MSDSs) to Safety Data Sheets (SDSs) in the *Hazardous Substance Tracking Instructions* to reflect the Hazardous Communication Standard change to the Globally Harmonized System of Classification and Labelling of Chemicals (GHS) – a global initiative classifying, defining and communicating hazards.
4. Remove from the List of Reportable Chemicals the following additional chemical that is now regulated only by the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA):
  - HAE (CAS # 034375-28-5)

#### **RELATED CITY POLICIES**

The Eugene Toxics Right-to-Know Program relates to the following Eugene City Council Goals and Outcomes: Safe Community; Sustainable Development; and Effective, Accountable Municipal Government.

The Toxics Board provides policy direction on the Eugene Toxics Right-to-Know Program, and serves as an advisory board to the City Council, working under the Eugene City Charter Section 54 (Amendment IV).

Section 54, Article X of the Charter Amendment provides in part as follows:

The City Council shall, upon recommendation of the Toxics Board and without unreasonable delay, enact reasonable ordinances necessary and proper for carrying into execution the provisions of the Amendment.

Ordinance No. 20499: An ordinance adopting amended *Hazardous Substance Tracking Instructions* for reports due April 1, 2013, and removing three hazardous substances from the List of Reportable Chemicals.

**COUNCIL OPTIONS**

1. Act on the ordinance.
2. Postpone action on the ordinance.
3. Provide other direction.

**CITY MANAGER'S RECOMMENDATION**

The City Manager and the Toxics Board recommend adoption of the ordinance.

**SUGGESTED MOTION**

Move to adopt Council Bill 5100, an ordinance amending the *Hazardous Substance Tracking Instructions* for reports due beginning April 1, 2014, and removing a hazardous substance from the List of Reportable Chemicals.

**ATTACHMENTS**

- A. Proposed Ordinance, with Exhibit A, Hazardous Substance Tracking Instructions (amendments to the Hazardous Substance Tracking Instructions shown in track changes.)

**FOR MORE INFORMATION**

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