

# Portland's air pollution crisis is exposed. Now what?



News that two local glass manufacturers spewed toxic pollution into the air while Oregon Department of Environmental Quality did nothing elicited shock and outrage among unsuspecting Portlanders.

It led city, Multnomah County and state politicians and community groups to demand regional air pollution be reined in.

But area activists have long known Portland's air is a health hazard – in large part due to diesel exhaust.

Whether additional testing around the glass manufacturers shows they pose an increased cancer risk to residents or not, aggregate area pollution from other sources is, and activists don't want this opportunity for meaningful improvements to air pollution regulation to go up in smoke.

This was the topic of a meeting in Old Town on March 3. Statewide environmental justice groups [Beyond Toxics](#) and [Oregon Environmental Council](#) met with [OPAL](#), [Coalition of Communities of Color](#), and [Portland's Neighbors for Clean Air](#) to discuss uniting in an effort to push for policies that will put a cap on pollution while the political climate is ripe.

Meeting attendees said they want to avoid spot fixes aimed at quelling the frenzy but that do little to improve the overall quality of air.

While Oregon waits to see if the \$2.5 million in additional funding for air testing cleared by Gov. Kate Brown, as well as a new [DEQ](#) director, can help the agency do its job effectively, environmental groups are also promoting strategies for tackling Portland's toxic air.

## Right to know

In Eugene, residents believe they have the right to know if they're being exposed to toxic chemicals that can make them sick. In 1996, they voted to implement [Eugene's Toxics Right-to-Know program](#). In doing so, they amended the city charter to require that certain industrially classified facilities bringing in 2,640 pounds or more of a hazardous substance each year must account for exactly where every pound went – whether into the air, water, waste or product – and then report that information to the fire marshal.

Eugene residents can go to the program's website, select their ZIP code, and peruse different output categories – one is “emitted to air” – [to see what company is spewing how much of what](#) and where within Eugene's city limits.

If Portland had a similar program, community members and environmental regulators would have had the ability to find out what chemicals Bullseye Glass and Uroboros Glass were releasing into the air, and the amounts, Beyond Toxics Director Lisa Arkin told Street Roots. Arkin sits on the right-to-know program's board.

“It's working very smoothly,” Arkin said. “You can look up any industry and you can see, down to the pound, how much lead they're putting out, how much chromium they're putting out, how much cadmium, how much formaldehyde.” “It's working very smoothly,” Arkin said. “You can look up any industry and you can see, down to the pound, how much lead they're putting out, how much chromium they're putting out, how much cadmium, how much formaldehyde.”

She said this makes it easy for health and environmental officials to pinpoint hotspots that may need additional monitoring.

Eugene Fire Marshal's Office employee Joann Eppli has been running Eugene's right-to-know program for the past five years. She is the only employee of the program, which has an annual budget of \$119,000.

She said residents have used the city's right-to-know web page to identify causes for concern. In the past, they have notified Lane County's local air quality authority, which then worked with the businesses to correct their emitting behavior.

Lane County has the only regional air quality authority in the state – a holdover from before DEQ absorbed other regional agencies across Oregon.

While a right-to-know program could be beneficial to Portlanders, said Mary Peveto at Neighbors for Clean Air, without an air quality regulator willing to act on its authority, the program wouldn't do much to fix the current situation.

“We are really trying to drive towards the mandate that the agency already has, that it's not fulfilling,” she said – “to act on its current authority to reduce toxic pollution.”

Eppli said that if Portland wants its own right-to-know program, proponents would be wise to be transparent with affected businesses about what impact the program will have on them and to help them understand why implementing such a program would be beneficial to residents.

She said that when businesses in Eugene discovered what they had to do to comply, “they were angry, and they got together with the Chamber of Commerce and immediately, I think it was in the first 6 months, filed a lawsuit against the city to make the program go away.”

What businesses had to do was pay a fee based on their pollution volume and file a detailed inventory report that shows how they are using all the reportable hazardous substances that come through their doors, Eppli said. Noncompliance fines were capped at \$25,000 per day. Fees for participating in the mandatory program ranged from a few hundred dollars per year to more than \$7,000.

When the lawsuit landed in the Oregon Court of Appeals in 1999, a judge changed the fee structure, making the fee amount based on the number of full-time employees rather than pollution.

The judge also exempted pesticides. That same year, then-Gov. John Kitzhaber signed a bill into law that made it challenging for any other local government to institute a similar program. It also placed limitations on the Eugene program and capped the non-compliance fine at \$1,000 per day.

Associated Oregon Industries pushed the bill, which environmental groups believed was aimed at crippling the program. Originally Kitzhaber pledged to veto it, but he changed his mind after several amendments were made.

Before Portland could implement its own right-to-know program, this legislation would need to be repealed, said Zach Klonoski, Portland Mayor Charlie Hales’ policy adviser.

“The state has made it very difficult for communities to pass community right-to-know ordinances,” he said. “The state has made it very difficult for communities to pass community right-to-know ordinances,” he said.

Limitations put in place by the 1999 bill include a cap on the business fee at \$2,000, with no adjustment for inflation. This forces smaller businesses to compensate for the decrease in fees on large businesses, because by law, the program must be self-sustaining. The bill also added requirements for multiple open-comment periods from the public and other agencies that would draw out and complicate the implementation process.

Arkin said that while removing the limitations would make it easier to start a right-to-know program in Portland, it wouldn’t be impossible if they remained in place.

Eppli said some of these limitations would help a local government avoid the push back experienced in Eugene by making the process transparent to affected businesses and other agencies on the front end.

However, if a polluting facility is legal and permitted, Peveto said, “it really doesn’t matter what you know about its emissions if the agency (DEQ) isn’t going to shift the regulatory framework to regulate and protect public health with their permitting process.”

She said she agrees people have the right to know if they are being exposed to toxicants. “The question is, does that specific law help?” she said.

“I would assume that even supporters would acknowledge that a program that started 30 years ago might need to be reconstructed,” she said. “Clearly, Eugene still has significant industrial, and other, air pollution problems.”

But the knowledge a right-to-know program such as Eugene’s would provide could catalyze community grass-roots efforts, said Colin Price at Oregon Environmental Council.

### **Permit program**

The Oregon Environmental Council is promoting a change in the fundamental way DEQ conducts its air quality permitting.

Under its current system, Price said, the levels of pollution that are allowed can lead to elevated risk for cancer, aggravated asthma and impacts on children, such as brain development, as well as other health risks.

This is because DEQ’s air quality permitting program is based on the pollution control technology that’s available to a particular industry, not the human health impact of the pollution emitted. This means that if the technology to effectively limit the pollution doesn’t exist, the permit allows for the pollution to continue without it, regardless of health impacts.

Price said putting human health first would be a more proactive approach.

“They have the authority to change the requirements in their permitting process without new authority,” he said, “which is why it seems like a logical target for action moving forward.”

He said DEQ should also focus on rebuilding trust, and that it should try to do so by identifying other facilities that could be posing a threat to vulnerable communities within their vicinities. He recommends DEQ increase awareness in the community about air pollution problems and then look for near-term solutions like good-neighbor agreements that encourage facilities to voluntarily cut down on pollution.

On Feb. 18, Portland’s mayor and Multnomah County’s chair signed off on a letter to the governor stating they would be willing to explore establishing a regional air pollution authority, effectively taking over the responsibility of monitoring Portland-area air polluters.

During an environmental forum last week, Portland’s top three mayoral candidates showed support for this declaration by calling for a new office to regulate air pollution locally.

Hales' adviser, Klonoski, said air quality reform needs to start at the state level, but the city is exploring the possibility of working with other local governments to establish a regional air authority if DEQ fails to take steps to reduce pollution.

"We are prepared to take action," he said.

If local governments establish a regional air quality authority, collaboration among agencies is crucial, Price said.

"I think that there is still the opportunity for local jurisdictions to partner with DEQ and with the state to move forward on this, and that may be the most effective near-term strategy," he said.

### **What about my neighborhood?**

In Portland, the most detailed source of information about point-source air pollution is a facility's air quality permit, issued by DEQ. But DEQ doesn't post permits online (Lane county's regional air authority does), and even if it did, the permits would show only the maximum pollution allowances, not the amount of pollution that is actually emitted.

If Portland residents want to see the permit of, say, the manufacturing plant down the street from their home, they must go through a lengthy public-records request process.

That's exactly what Seth Woolley and Greg Bourget of Portland Clean Air did. In January, they [posted the data they'd collected](#) from air quality permits issued across Portland on their website. Woolley said it took them a year to get all the records from DEQ.

Portlanders really have no way of knowing about pollution in their area unless they smell it or see it, he said, "but mostly you don't see it because of the opacity rules."

Woolley and Bourget decided to inform the public about Portland's air pollution problem through a website and by going door to door, telling people about nearby pollution and encouraging them to get involved.

"Air pollution tends to be the most impactful in the first couple miles around the location," he said, making the facility's neighbors' testimony most compelling should they testify before government bodies.

But soon after they posted their data online, [The Portland Mercury broke news of Bullseye Glass pollution](#). Now, he said, "the news media is actually doing a lot of what we were trying to do by going door to door, and that's letting people know that there's a problem."

Another source of pollution information is the [EPA's Toxics Release Inventory](#), which shows [limited data on area polluters](#) in its searchable online database. Woolley said something similar to Eugene's right-to-

know program would help people be more informed.

Portland Clean Air is also planning to do some air monitoring of its own, but it's costly.

"We were able to find an older machine from people trying to work against Intel in New Mexico," Woolley said.

He said once the air monitoring machinery arrives in Portland, he plans to station it on the property of a friend who lives across from Intel, the fifth-largest greenhouse-gas producer in the state, and then move it around to other Portland hot spots to see what's really in the air – if he can afford to run it.

"You know, it's the city, the state or the polluters themselves that should be paying for this because it is really expensive," he said.

### **Don't forget diesel**

While policymakers and community groups advocate for better permitting and monitoring of industry, it's important to remember mobile sources of pollution too – especially diesel-emitting vehicles, which cover a lot of ground in port cities such as Portland, said Oregon Environmental Council's Price.

Multnomah County has the nation's fourth-worst concentration of diesel pollution.

"Diesel drives a lot of the risk," he said.

According to DEQ, diesel is 100 times more toxic than gasoline exhaust and is a known carcinogen. According to data compiled by Portland Clean Air, all of downtown and much of Northwest, North and Northeast Portland have diesel concentrations that are 10 times greater than the standard health benchmark. The rest of the city isn't much better off, with most of it between five and 10 times the benchmark.

Price said there's been "limited appetite in the Legislature to tackle this in a comprehensive way." Price said there's been "limited appetite in the Legislature to tackle this in a comprehensive way."

While state legislation aimed at limiting diesel pollution died in the 2015 session, activists want to find ways to ensure momentum built from the community's desire to clean up the air will carry through to 2017, when similar bills aimed at reducing diesel pollution will likely be introduced.

In 2015, Sen. Michael Dembrow (D-Portland) and Rep. Mitch Greenlick (D-Portland) introduced legislation aimed at getting older and dirtier diesel engines off the road, using California's standards as a road map, repealing the idling pre-emption, and directing DEQ to establish diesel emission standards for engines.

Associated Oregon Industries opposed these bills.

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