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Before Portland could implement its own right-to-know program, this legislation would need to be repealed, said Zach Klonoski, Portland Mayor Charlie Hales' policy adviser.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

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, portlandcleanair.org. 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

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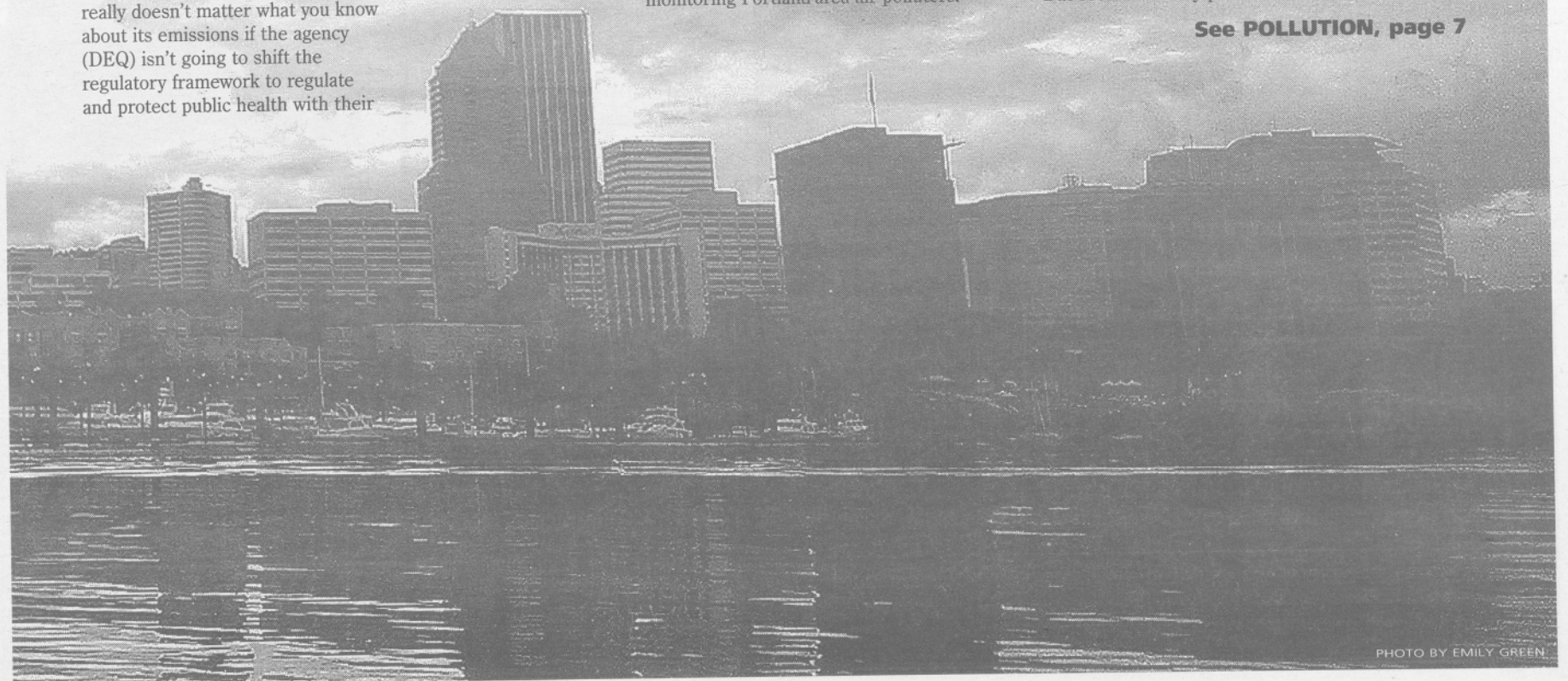


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