

NOTICES OF PROPOSED RULEMAKING

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Department of Environmental Quality Chapter 340

Rule Caption: Clean Fuels Program Corrections

Stat. Auth.: ORS 468.020, 468A.275

Other Auth.: HB 2186 (2009) & SB 324 (2015)

Stats. Implemented: ORS 468A.275

Proposed Amendments: 340-253-8010, 340-253-8020, 340-253-8030, 340-253-8040

Proposed Repeals: 340-253-8010(T), 340-253-8020(T), 340-253-8030(T), 340-253-8040(T)

Last Date for Comment: 7-21-16, 4 p.m.

Summary: DEQ proposes the Environmental Quality Commission approve new proposed rules to correct a miscalculation of how the clean fuel standards and the carbon intensity values of two fuel pathways were calculated in the rules adopted by the EQC on Dec. 9, 2015.

The EQC adopted temporary rules on April 21, 2016 to correct the miscalculation described above; this rulemaking will make those corrections permanent.

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Rule Caption: Art Glass Permanent Rules 2016

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.055, 468A.070 & 468A.310

Stats. Implemented: ORS 468A.025, 468A.040, 468A.055, 468A.070 & 468A.310

Proposed Adoptions: 340-244-9000, 340-244-9010, 340-244-9020, 340-244-9030, 340-244-9040, 340-244-9050, 340-244-9060, 340-244-9070, 340-244-9080, 340-244-9090

Proposed Amendments: 340-244-0010

Proposed Repeals: 340-244-0010(T), 340-244-9000(T), 340-244-9010(T), 340-244-9020(T), 340-244-9030(T), 340-244-9040(T), 340-244-9050(T), 340-244-9060(T), 340-244-9070(T), 340-244-9080(T), 340-244-9090(T)

Last Date for Comment: 7-29-16, 4 p.m.

Summary: Short summary:

- DEQ proposes that the Oregon Environmental Quality Commission (EQC) approve the proposed rules, making the temporary art glass rules adopted by the EQC in April 2016 permanent, but potentially with some modifications.

Brief history:

- Elevated and possibly unsafe levels of metals have been found in the air around two glass manufacturing facilities in Portland. In May 2015, DEQ received the initial results of a study the U.S. Forest Service conducted looking at moss samples as an indicator or screening tool for contaminants in the air. The study's results showed that the moss samples in the areas near two colored art glass manufacturers contained high levels of the heavy metals cadmium and arsenic in Southeast Portland and cadmium in North Portland.

This pilot study prompted DEQ to set up air monitoring systems near a glass company in Southeast Portland. The study collected 24-hour air samples every few days over a 30-day period in October 2015. The results of DEQ's air monitoring confirmed that the glass company was the likely source of metals air emissions. DEQ completed its quality assurance and quality control review of those samples in late January 2016. DEQ then shared its analysis of the findings with the Oregon Health Authority (OHA) and the Multnomah County Health Department.

The DEQ also identified a second area of concern near a glass company in North Portland. The glass companies were operating in

compliance with the current law. One company was operating within its permit and the other company is not required to have a permit.

The U.S. Congress amended the Clean Air Act in 1990 to allow EPA to oversee the control of 188 hazardous air pollutants (HAPs) in order to protect human health. The EPA works with local and state governments to implement technologies that control the emission of these chemicals.

Benchmarks are Oregon's protective "clean air" goals that DEQ developed to address toxic air pollutants. There are no direct regulatory requirements associated with benchmarks. In 2005, with EPA funding, DEQ measured concentrations of air toxics, including metals, at six locations in the Portland area, finding levels of many pollutants above clean air benchmarks. DEQ established air toxics benchmarks in 2006 that set guidelines for 52 pollutants.

DEQ's work in 2006 and since then has identified levels of some toxic air pollutants that are still above Oregon's air toxics benchmarks. This is a significant problem because toxic air pollutants are connected with serious health effects like cancer, respiratory problems and organ damage. DEQ's air toxics benchmarks are designed to be very protective air concentrations that people could breathe for a lifetime without increasing their cancer risk beyond a chance of one in a million.

Air toxics emissions from certain types of industrial businesses like colored art glass manufacturers are not fully regulated under federal requirements. Based on sampling DEQ has concluded that uncontrolled furnaces used in such colored art glass manufacturing are more likely than not to emit potentially unsafe levels of certain metals, including arsenic, cadmium, hexavalent chromium and nickel. The permanent rules that DEQ proposes for EQC adoption are intended to protect public health and the environment by ensuring the air emissions from colored art glass facilities do not cause unsafe levels of metals in the air nearby.

EQC adopted temporary rules on April 21, 2016 and this proposed rulemaking will make those rule changes permanent. If no action is taken those rules will expire 180 days after adoption, on October 18, 2016.

Regulated parties

- The proposed rules apply to colored art glass manufacturers (CAGM) in the Portland Air Quality Maintenance Area (AQMA). DEQ is considering rule modifications that would make the proposed permanent rules apply to more sources than do the temporary rules, as noted below in the section titled "Request for other options".

CAGMs will incur expenses to obtain air permits; submit reports to DEQ; and depending on the compliance path chosen, to install, operate and maintain emission control devices, and/or perform stack testing and dispersion modeling.

Request for other options:

- During the public comment period, DEQ requests public comment on whether to consider other options for achieving the rules' substantive goals while reducing the rules' negative economic impact on business.

In addition to comments on other aspects of the proposed rules, DEQ is specifically requesting public input on these questions:

- Should the rule be modified to apply to sources that make less than 10 tons per year of colored art glass? If so, what threshold would be appropriate? If proposing a new threshold, what is the scientific/risk based rationale for the change?

- Should the rule be modified to apply statewide, rather than only in the Portland AQMA?

- The temporary rule requires control devices be shown to capture at least 99.0% of incoming particulate matter. DEQ has received indications that, for some facilities, capturing enough particulate matter to show compliance with the 99.0% requirement may require an unmanageably long source test. DEQ seeks comment on whether replacing the 99.0% capture efficiency standard with an emissions standard at the control device outlet would be appropriate for Tier 1 or all facilities and if so, what emissions standard should be chosen. DEQ is considering a control device outlet particulate matter emis-