From: MACMILLAN Susan
To: "WESTERSUND Joe"; "PALERMO Jaclyn"; "MACMILLAN Susan"; GARRAHAN Paul; ALDRICH Greg; JOHNSON Keith
Cc: DAVIS George; artglass2016
Subject: RE: proposed revised art glass rule language + staff report re selenium
Date: Tuesday, September 20, 2016 4:22:29 PM

Yes

From: WESTERSUND Joe [mailto:joe.westersund@state.or.us]
Sent: Tuesday, September 20, 2016 4:21 PM
To: 'PALERMO Jaclyn' <jaclyn.palermo@state.or.us>; 'MACMILLAN Susan' <susan.macmillan@state.or.us>; GARRAHAN Paul <Paul.GARRAHAN@state.or.us>; ALDRICH Greg <Greg.ALDRICH@state.or.us>; JOHNSON Keith <Keith.JOHNSON@state.or.us>
Cc: DAVIS George <George.DAVIS@state.or.us>; artglass2016 <artglass2016@deq.state.or.us>
Subject: RE: proposed revised art glass rule language + staff report re selenium

OK, it sounds like here's where we're at:

Rule:
(G) Selenium, at a concentration that the CAGM demonstrates to the satisfaction of the Director is adequate to protect members of the public from suffering adverse health effects. The Director shall consult with the Oregon Health Authority when considering whether a proposed concentration will be adequately protective.

Staff report (slight mod from Jaclyn's suggestion):
340-244-9050(3)(a)(G) of the proposed rules does not set a health benchmark for selenium, because a DEQ and OHA review of selenium toxicity is currently ongoing and is expected to be completed before the end of 2016. Updated benchmarks could be incorporated into this rule in a future rulemaking. Currently, the proposed rules put the burden on a Tier 1 facility requesting to utilize the exemption at 9050(3) to demonstrate that their proposed selenium emissions rate is protective of public health.

Sound OK?

-Joe

From: PALERMO Jaclyn [mailto:jaclyn.palermo@state.or.us]
Sent: Tuesday, September 20, 2016 4:17 PM
To: 'MACMILLAN Susan' <susan.macmillan@state.or.us>; GARRAHAN Paul <Paul.GARRAHAN@state.or.us>; WESTERSUND Joe <Joe.WESTERSUND@state.or.us>; ALDRICH Greg <Greg.ALDRICH@state.or.us>; JOHNSON Keith <Keith.JOHNSON@state.or.us>
Cc: DAVIS George <George.DAVIS@state.or.us>
Subject: RE: proposed revised art glass rule language + staff report re selenium

I like Paul's language as well. No offense, Sue.

From: MACMILLAN Susan [mailto:susan.macmillan@state.or.us]
Sent: Tuesday, September 20, 2016 4:16 PM
To: GARRAHAN Paul; WESTERSUND Joe; ALDRICH Greg; PALERMO Jaclyn; JOHNSON Keith; MACMILLAN Susan
Cc: artglass2016; DAVIS George
Subject: RE: proposed revised art glass rule language + staff report re selenium

Hello, Paul --
I like your phrasing much better than mine. I've been spending too much time with the OHA toxicologists, apparently.

From: GARRAHAN Paul
Sent: Tuesday, September 20, 2016 4:13 PM
To: WESTERSUND Joe <Joe.WESTERSUND@state.or.us>; ALDRICH Greg <Greg.ALDRICH@state.or.us>; PALERMO Jaclyn <Jaclyn.PALERMO@state.or.us>; JOHNSON Keith <Keith.JOHNSON@state.or.us>; MACMILLAN Susan <Susan.MacMillan@state.or.us>
Cc: artglass2016 <artglass2016@deq.state.or.us>; DAVIS George <George.DAVIS@state.or.us>
Subject: RE: proposed revised art glass rule language + staff report re selenium

My thoughts:

I wonder whether the phrase "protect public health from adverse effects" should be something like "protect members of the public from suffering adverse health effects." The adverse effects are suffered by individuals, as opposed to the faceless term "public health," right? I'm concerned that "public health" refers to a broad cross-section of the community, and whether adverse effects suffered by a very small number of particularly sensitive people would be an adverse effect to public health, generally? Perhaps it would. Maybe I'm parsing this too much. (And to make it even more demanding, you could say, "protect <u>any</u> member of the public from suffering adverse health effects," but that might create too great a burden, and make it more difficult for the Director to approve any emission level.)

Here's the provision, for ease of reference for everyone:

> (G) Selenium, at a concentration that the CAGM demonstrates to the satisfaction of the Director is adequate to protect public health from adverse effects. The Director shall consult with the Oregon Health Authority when considering whether a proposed concentration will be adequately protective.

The staff report language looks fine to me.

Paul Garrahan
Oregon Department of Justice
503.947.4593 (Direct)
503.929.7553 (Mobile)

From: WESTERSUND Joe [mailto:joe.westersund@state.or.us]

Sent: Tuesday, September 20, 2016 3:55 PM
To: ALDRICH Greg; PALERMO Jaclyn; JOHNSON Keith; GARRAHAN Paul; MACMILLAN Susan
Cc: artglass2016; DAVIS George
Subject: proposed revised art glass rule language + staff report re selenium

Hi All,

Per our conversations today, here is a draft of the rule language and staff report that includes the change at 340-244-9050(3)(a)(G) to replace the 710 ng/m3 selenium level with 'demonstrate to the satisfaction of the Director' language. You can use track changes to see what's new.

Sue, I used some but not all of your suggested language.

George, I edited the 'clean' copy of the rule language but I / you will also have to update the other two (redline compared to current permanent and redline compared to temp) when we have final language.

Please reply all with your comments. It'd be ideal if we can get this finalized by the end of the day today.

-Joe

Joe Westersund
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Usual Schedule: 8am - 5pm, M-F

This November, DEQ's Headquarters Office will be moving to a new location - the 700 Lloyd Building at 700 NE Multnomah St., Suite #600, Portland, OR 97232. The target date for operating at the new location is November 7th, 2016.

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