

NOTICES OF PROPOSED RULEMAKING

Address: Department of Corrections, 2575 Center St. NE, Salem, OR 97301-4667

Telephone: (503) 945-0933

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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.

Rules Coordinator: Meyer Goldstein

Address: Department of Environmental Quality, 811 SW Sixth Ave., Portland, OR 97204

Telephone: (503) 229-6478

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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-

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sion standard between 0.001 and 0.01 gr/dscf (grains per dry standard cubic foot of air) based on a range of emissions standards in federal air toxics rules.

Rules Coordinator: Meyer Goldstein

Address: Department of Environmental Quality, 811 SW Sixth Ave., Portland, OR 97204

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Department of Fish and Wildlife

Chapter 635

Rule Caption: Coastal Angling Zones Salmon Fisheries.

Date:	Time:	Location:
8-5-16	8 a.m.	4034 Fairview Industrial Dr. SE Salem, OR 97302

Hearing Officer: OR Fish and Wildlife Commission

Stat. Auth.: ORS 496.138, 496.146, 506.036, 506.119, 506.129, 506.750, et. Seq.

Other Auth.: Magnusson-Stevens Sustainable Fisheries Act.

Stats. Implemented: ORS 496.162, 506.036, 506.109, 506.129, 506.750, et. Seq.

Proposed Adoptions: Rules in 635-003, 635-013, 635-014, 635-016
Proposed Amendments: Rules in 635-003, 635-013, 635-014, 635-016

Proposed Repeals: Rules in 635-003, 635-013, 635-014, 635-016

Last Date for Comment: 8-5-16, Close of Hearing

Summary: Amended rules relate to sport salmon fishing in the Northwest and Southwest angling zones consistent with guidelines established by the Oregon Fish and Wildlife Commission, Pacific Fishery Management Council and enacted Federal Regulations. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

Rules Coordinator: Michelle Tate

Address: Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302

Telephone: (503) 947-6044

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Rule Caption: Rule Amendments Related to the 2017 Oregon Sport Fishing Regulations.

Date:	Time:	Location:
8-5-16	8 a.m.	4034 Fairview Industrial Dr. SE Salem, OR 97302

Hearing Officer: OR Fish and Wildlife Commission

Stat. Auth.: ORS 496.138, 496.146, 496.162, 497.121 & 506.119

Stats. Implemented: ORS 496.004, 496.009, 496.138, 496.146, 496.162, 506.109 & 506.129

Proposed Adoptions: Rules in 635-011, 635-012, 635-013, 635-014, 635-016, 635-017, 635-018, 635-019, 635-021, 635-023, 635-039, 635-500

Proposed Amendments: Rules in 635-011, 635-012, 635-013, 635-014, 635-016, 635-017, 635-018, 635-019, 635-021, 635-023, 635-039, 635-500

Proposed Repeals: Rules in 635-011, 635-012, 635-013, 635-014, 635-016, 635-017, 635-018, 635-019, 635-021, 635-023, 635-039, 635-500

Last Date for Comment: 8-5-16, Close of Hearing

Summary: These rules modify sport fishing regulations for finfish, shellfish, and marine invertebrates for 2017. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

Rules Coordinator: Michelle Tate

Address: Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302

Telephone: (503) 947-6044

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Rule Caption: Amend rules relating to Wildlife Management Plans for elk and mule deer.

Date:	Time:	Location:
8-5-16	8 a.m.	4034 Fairview Industrial Dr. SE Salem, OR 97302

Hearing Officer: ODFW Commission

Stat. Auth.: ORS 183, 496.012, 496.138, 496.146, 496.162 & 496.164

Stats. Implemented: ORS 183, 496.012, 496.138, 496.146, 496.162 & 496.164

Proposed Amendments: Rules in 635-160, 635-190

Last Date for Comment: 8-5-16, Close of Hearing

Summary: Amendments to elk and mule deer Wildlife Management Plans.

Rules Coordinator: Michelle Tate

Address: Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302

Telephone: (503) 947-6044

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Department of Human Services, Aging and People with Disabilities and Developmental Disabilities Chapter 411

Rule Caption: ODDS: Foster Homes for Children with Intellectual or Developmental Disabilities

Date:	Time:	Location:
7-21-16	2:30 p.m.	Human Services Bldg. 500 Summer St. NE, Rm. 160 Salem, Oregon 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.050, 443.835

Stats. Implemented: ORS 430.215, 443.830, 443.835

Proposed Amendments: Rules in 411-346

Proposed Repeals: 411-346-0100(T), 411-346-0110(T), 411-346-0170(T), 411-346-0190(T), 411-346-0200(T)

Last Date for Comment: 7-25-16, 5 p.m.

Summary: The Department of Human Services, Office of Developmental Disabilities Services (Department) is proposing to update the rules in OAR chapter 411, division 346 for foster homes for children with intellectual or developmental disabilities.

These rule are being updated to:

- Make permanent the temporary rule changes that became effective on February 23, 2016;
- Provide consistency across services by removing terms included in the general definitions rule, OAR 411-317-0000;
- Clarify the requirements for private duty nursing;
- Incorporate the adoption of the rules for home and community-based (HCB) services and settings and person-centered service planning in OAR chapter 411, division 004; and
- Incorporate the individual rights in OAR 411-318-0010 for individuals receiving HCB services.

The rules in OAR chapter 411, division 004 implement the regulations and expectations of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) by providing a foundation of standards to support the network of Medicaid-funded and private pay residential and non-residential HCB services and settings and person-centered service planning.

Under the HCB setting standards, child foster homes meet the definition of a provider owned, controlled, or operated residential setting. A provider initially licensed on or after January 1, 2016 must meet the requirements in OAR chapter 411, division 004 prior to being licensed. A provider licensed prior to January 1, 2016 must make measurable progress toward compliance with the rules in OAR chapter 411, division 004 and be in full compliance by September 1, 2018.

Written comments may be submitted via e-mail to Kimberly.Colkitt-Hallman@state.or.us or mailed to 500 Summer Street NE, E48 Salem, Oregon, 97301-1064. All comments received will be given equal consideration before the Department proceeds with the permanent rulemaking.