



State of Oregon Department of Environmental Quality

Questions and Answers about the Bullseye Glass Co. Mutual Agreement and Final Order

June 6, 2016

Why was the Cease and Desist Order lifted?

On 6/6/2016, DEQ and Bullseye Glass reached agreement on how Bullseye will operate safely and in full compliance with both federal and state AQ regulations (the EPA 6S NESHAP and the DEQ temporary rules) until its new permit can be issued. This agreement, called a Mutual Agreement and Order (MAO) replaces the existing Cease and Desist order and will ensure that Bullseye operates safely, and with accountability, during this interim period of time.

What is an MAO, and what does it do?

A MAO is an enforceable DEQ order that sets specific requirements and timelines for how a facility will meet all emission control requirements. It is an agreement that authorizes them to operate in compliance with all applicable rules during an interim period until such a time as a new, updated permit is issued. While Bullseye must meet all requirements of DEQ's temporary rules by 9/1/2016, this agreement allows time for a facility to continue to operate safely while they take necessary steps to acquire a revised permit. MAO's also "settle" past violations for regulations that a facility may have violated with or without its knowledge. The MAO also sets specific penalty amounts for violations of the MAO terms.

What are the important aspects of this MAO?

The MAO sets a specific timeline for the facility to come into compliance with NESHAP 6S and the DEQ temporary rules. It ensures that the DEQ regulations will continue to apply to Bullseye even if the rules themselves expire. It ensures Bullseye will have appropriate controls on its ovens as of September 1, 2016 (as DEQ's rules require), and it sets a date, in mid-2017 for Bullseye to submit their application for the Title V permit.

While DEQ's temporary rules now prevent Bullseye from all use of cadmium, arsenic and chromium VI in an uncontrolled furnace, this MAO adds lead to that list. It also prohibits the use of selenium, cobalt, manganese and nickel in uncontrolled furnaces (note that neither cobalt nor selenium are otherwise subject to regulation under either DEQ or EPA regulations). In the case of these other 4 metals, the MAO allows Bullseye to propose safe daily usage amounts in uncontrolled furnaces. Should Bullseye make this request, DEQ and OHA will review 2016 usage data from Bullseye, and air monitoring data and will determine whether the proposed level is protective before approving.

Furthermore, the MAO requires Bullseye to submit regular documentation, and describe and maintain adequate facility practices so that DEQ can ensure the facility is operating safely.

Why do an MAO? Why not just have them submit a permit application and comply right now?

Bullseye is still required to comply with its existing AQ permit. Because new requirements can often take time and resources to implement, federal and state AQ regulations allow time for facilities that are already in operation to come into compliance. Submitting permit applications, and the time for DEQ to review

and issue permits, which includes a public notice period, is a lengthy process. This MAO requires compliance with DEQ's rules, and creates enforceable restrictions now and a set timeline for that process to be completed. It establishes a legally enforceable interim requirements, ensuring that the facility is operating safely while coming into compliance with the permit requirements.

Why is DEQ allowing the possibility of use of metal HAPs in uncontrolled furnaces before 9/1? Why not wait until they are all controlled?

The MAO goes beyond the DEQ rule requirements by adding additional usage restrictions, and new metal HAPs to the restricted list. If Bullseye requests a usage restriction, the use of selenium, nickel, cobalt or manganese will only be allowed in limited amounts if upon DEQ/OHA review, the data collected show that it will not create unsafe emissions. The MAO adds lead to the list of metal HAPs that must be controlled now, regardless of quantity.

Why do they have so long to apply for a TV permit?

A Title V permit application is an extensive and complex document to produce. This MAO allows ample time for its submission so that the facility can also maintain focus on installing the pollution control equipment to meet DEQ's rules, which are more restrictive and take effect sooner. The MAO also has clear penalties for non-compliance.

Why are there no penalties for "past violations"?

EPA several years ago stated that 6S did not apply to Bullseye Glass. However, recently, upon request from DEQ, EPA clarified that Bullseye does have the type of furnaces that this regulation applies to, and DEQ determined that the federal regulation does apply to Bullseye. Given these circumstances, DEQ determined that a penalty was not appropriate.

How will daily allowances be evaluated?

DEQ, in consultation with OHA, will compare metal HAP usage over the last 2 months against the highest air monitor readings for that same day, as well as the DEQ ambient benchmark concentration and the 24-hour screening level for that same metal. This analysis will allow the agencies to determine whether or not what Bullseye proposes will be protective of public health in light of this existing data.

Why wasn't the public involved in commenting on the draft MAO?

The MAO document is a settlement and operating agreement, consistent with DEQ rules. Public comment will be an important part of this permit issuance process in 2017, as well as all future rulemaking and regulatory reform currently underway.