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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 333
OREGON HEALTH AUTHORITY
PUBLIC HEALTH DIVISION

FILED
10/28/2021 11:19 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Toxic Free Kids Rule Revision to Clarify Reporting and Revise Reportable Chemical List

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/22/2021 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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800 NE Oregon St.
Portland,OR 97232

Filed By:
Public Health Division
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 11/18/2021
TIME: 1:00 PM
OFFICER: Staff
ADDRESS: Microsoft Teams - Video/conference call
Due to COVID-19 the PSOB is not open to
the public & meetings are held remotely
Portland, OR 97232
SPECIAL INSTRUCTIONS:
Due to COVID-19, public meetings are
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2343, Phone conference ID 224 999 534# for audio
only. The hearing will close no later
than 4:00 PM, but may close as early
as 1:20 PM if all individuals that have
signed up to testify have had the
opportunity to enter their comments
into the record.

NEED FOR THE RULE(S)

SB 478 (Oregon Laws 2015, chapter 786) was passed by the Oregon Legislature during the 2015 legislative session. The

law requires the Oregon Health Authority (Authority) to require manufacturers of children's products to disclose high priority chemicals of concern for children's health used in children's products that are sold or offered for sale in Oregon. The law states that the Authority shall adopt a list of High Priority Chemicals of Concern for Children's Health (HPCCCH) and establish requirements for disclosure of such chemicals.

After two biennial notification cycles (2018 and 2020), the Authority has determined that manufacturers of children's products sold or offered for sale in Oregon are likely using two different methods to determine the proportion of HPCCCH in each product. Some manufacturers are reporting the concentration of HPCCCH in the components of products by dividing the mass of HPCCCH in each component of the product by the mass of the test sample of that component. [This is termed the "component method."] Other manufacturers are reporting the concentration of HPCCCH in the product by dividing the mass of the HPCCCH by the total mass of the product. [This is termed the "whole product method"]. Both methods are reported in parts per million (ppm).

The whole product method is likely to result in a concentration that is much smaller than that of the component method. That result may cause manufacturers to determine they don't need to include those children's products in biennial notifications to the Authority. A uniform method for calculating a product's HPCCCH ensures fair applicability of the law to all children's products

In August 2021, the Authority promulgated a temporary rule change to OAR 333-016-2060 to clarify reporting requirements. The change requires all reporting to follow the component method. [See Temporary Administrative Order PH 40-2021.] This change will apply to biennial notifications due on January 1, 2022 for products sold or offered for sale in Oregon in 2020 and 2021.

This current rulemaking is intended to make PH 40-2021 permanent.

Additional proposed amendments to OAR chapter 333, division 16 include:

A) Review and revision of OAR 333-016-2020 Chemicals of High Concern to Children is required of the Authority under provisions in ORS 431A.255 List of high priority chemicals of concern in children's products. This review is to occur every three years from the date OAR 333-016-2020 became effective (January 1, 2016). ORS 431A.255 directs the Authority to consider adding or removing High Priority Chemicals of Concern for Children's Health (HPCCCH) that are added or removed from Washington State Department of Ecology's Reporting List of Chemicals of High Concern to Children (CHCC). Changes to Ecology's CHCC list were made through Washington Administrative Code rulemaking and took effect on October 30, 2017. At a Fall 2018 Rules Advisory Committee meeting, the Authority proposed and added (to OAR 333-016-2020) five of the 20 chemicals that were added to Ecology's list in 2017 and removed the three chemicals that Ecology removed from their list. These changes took effect January 1, 2019. [ORS 431A.255 limits the number of chemicals that may be added to the HPCCCH list to five every three years.] With this rulemaking, the Authority proposes to add five more chemicals from Ecology's 2017 list. As Ecology has not removed chemicals since 2017 the Authority did not propose any to remove any during current rulemaking. The additions are to be effective January 1, 2022. Please see proposed text for further details on the chemicals to be added.

B) Review and revision of OAR 333-016-2035 Exhibit A. Practical Quantification Limits (PQLs) and detection methods were added for the five HPCCCH proposed to be added to OAR 333-016-2020. Detection methods and PQLs for the five HPCCCH proposed to be align with their counterparts on Washington's CHCC's list. In addition, the PQLs for 27 chemicals that were already on the HPCCC list were revised to align with Washington's CHCC list. Ten chemicals saw an increase in reporting levels while 17 chemicals saw a decrease. Proposed changes are to go into effect January 1, 2022 and affect biennial notices made for products sold or offered for sale in Oregon 2020 and 2021.

C) The modification of OAR 333-016-2060 Notification Requirements makes two clarifications: a) for purposes of this rule, "unit" has the same meaning as "component part" as that is defined in OAR 333-016-2010; and b) it specifies that the amount of a chemical used in each unit within each product category is to be reported and, if there are multiple concentrations for a given unit in a particular product category, the unit with the highest concentration is to be reported. These modifications are to be effective January 1, 2022 and affect biennial notifications made for products sold or offered for sale in Oregon in 2020 through 2021.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

SB 478 (Oregon Law 2015, chapter 786): https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/SB478/Enrolled
Oregon Toxic Free Kids Act, ORS 431A.250 – 431A.280: https://www.oregonlegislature.gov/bills_laws/ors/ors431a.html
OAR chapter 333, division 16: https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=1231
OAR chapter 333, division 16 Temporary Administrative Order PH 40-2021:
https://www.oregon.gov/oha/PH/HEALTHYENVIRONMENTS/HEALTHYNEIGHBORHOODS/TOXICSUBSTANCES/Documents
2021TrackedChanges.pdf

State of Washington, Department of Ecology, Children's Safe Products Act Reporting Rule and guidance documents.
https://apps.ecology.wa.gov/publications/documents/1804025.pdf and
https://apps.ecology.wa.gov/publications/documents/1704040.pdf#page=26

FISCAL AND ECONOMIC IMPACT:

A) The changes to OAR 333-016-2020 Chemicals of High Concern to Children will have a fiscal impact on manufacturers in Oregon. Manufacturers will need to report on chemicals added to the list at the next reporting deadline (January 1, 2024). If a manufacturer utilizes any of the five HPCCCH added to the list, they would be required to notify the Authority and submit the $250 notification fee by the next reporting period. (January 1, 2024). Some manufacturers will already have the information for these chemicals on hand as they will need to comply with reporting requirements of Washington's Children's Safe Products Act.

B) The changes to OAR 333-016-2035 Exhibit A are not anticipated to have a significant impact on manufacturers in Oregon since the changes are being made to align with Washington's CHCC's list. Some manufacturers will already have the information for these chemicals on hand as they will need to comply with the reporting requirements of Washington's Children's Safe Products Act. However, due to differences in how reports are made between the two state programs, this change may require some manufacturers to pay for additional testing or the development of additional reports.

C) The modifications of OAR 333-016-2060 Notification Requirements aligns the method by which a HPCCCH's concentration in a unit/component part is reported under Washington's Children's Safe Products Act (CSPA Act). Therefore, in many cases, manufacturers likely have this information on hand. As Oregon's TFK Act requires the reporting of HPCCCH's in components regardless of location in a product and the CSPA Act does not, manufacturers may incur costs for additional testing.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the

expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) A) The modification of OAR 333-016-2020 Chemicals of High Concern to Children will result in an addition of five chemicals to the List of high priority chemicals of concern in children's products (ORS 431A.255.) This change is not expected to have any cost of compliance impact on the public or local or state governments, as they are not required to provide notification to the Authority. The Authority will likely see an increase in fee revenue, as manufacturers must pay a fee for each chemical reported.

B) The modification of OAR 333-016-2035 Exhibit A is not expected to have any cost of compliance impact on local or state governments, or the public.

C) The modification of OAR 333-016-2060 Notification Requirements is not expected to have any cost of compliance impact on local or state governments, or the public.

(2)(a) ORS 431A.258 Disclosure by manufacturers only pertains to companies that gross over $5,000,000 in worldwide gross sales per year who manufacture children's products that contain HPCCCH. The term manufacturer includes an importer or domestic distributer. We are unable to estimate the number of manufacturers that would be considered a small business based on available information.

(b) ORS 431A.258 Disclosure by manufacturers only pertains to companies that gross over $5,000,000 in worldwide gross sales per year who manufacture children's products that contain HPCCCH. The term manufacturer includes an importer or domestic distributer. If a small business met these criteria, they would be responsible for providing notice to the Authority and any related recordkeeping.

(c) Manufacturers of children's products that contain HPCCCH would be required to provide notice to the Authority. This will include labor costs and the submission of a $250 notification fee to the Authority.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small business representatives and trade associations were invited to participate as Rule Advisory Committee members.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:
333-016-2020, 333-016-2035, 333-016-2060

AMEND: 333-016-2020

RULE SUMMARY: Amend Oregon Administrative Rule (OAR) 333-016-2020: Per Oregon Revised Statute (ORS) 431A.255 List of high priority chemicals of concern in children's products, the Authority is to review and amend OAR 333-016-2020, Chemicals of High Concern to Children (CHCC) every three years from the date the rule first became effective (January 1, 2016). The Authority proposes to amend OAR 333-016-2020 by adding five High Priority Chemicals of Concern for Children's Health (HPCCCH) also referred to as Chemicals of High Concern to Children (CHCC). As recommended by ORS 431A.255, the five chemicals added are chemicals that are listed on Washington State Department of Ecology's Reporting List of Chemicals of High Concern to Children (CHCC). Corrections to spelling or chemical wording in several of the HPCCCH in OAR 333-016-2020 were made.

CHANGES TO RULE:

333-016-2020
Chemicals of High Concern to Children ¶

The following chemicals are designated as high priority chemicals of concern for children's health when used in children's products:¶
(1) Formaldehyde (50-00-0).¶
(2) Aniline (62-53-3).¶
(3) N-Nitrosodimethylamine (62-75-9).¶
(4) Benzene (71-43-2).¶
(5) Vinyl chloride (75-01-4).¶
(6) Acetaldehyde (75-07-0).¶
(7) Methylene chloride (75-09-2).¶
(8) Carbon disulfide (75-15-0).¶
(9) Methyl ethyl ketone (78-93-3).¶
(10) 1,1,2,2-Tetrachloroethane (79-34-5).¶
(11) Tetrabromobisphenol A (TBBPA) (79-94-7).¶
(12) Bisphenol A (BPA) (80-05-7).¶
(13) Bisphenol S (BPS) (80-09-1).¶
(14) Di~~ethyl phthalate (DEP) (84-66-2).¶~~
~~(15~~cyclohexyl phthalate (DCHP) (84-61-7).¶
(15) Diethyl phthalate (DEP) (84-66-2).¶
(16) Diisobutyl phthalate (DIBP) (84-69-5).¶
(17) Di-n-butyl phthalate (DBP) (84-74-2).¶
(1~~6~~8) Di-n-hexyl phthalate (DnHP) (84-75-3).¶
(1~~7~~9) Butyl benzyl phthalate (BBP) (85-68-7).¶
(~~18~~20) N-Nitrosodiphenylamine (86-30-6).¶
(2~~1~~9) Hexachlorobutadiene (HCDB) (87-68-3).¶
(2~~0~~2) Propyl paraben (94-13-3).¶
(2~~1~~3) Butyl paraben (94-26-8).¶
(2~~2~~4) 2-Aminotoluene (95-53-4).¶
(2~~3~~5) 2,4-Diaminotoluene (95-80-7).¶
(2~~4~~6) Methyl paraben (99-76-3).¶
(2~~5~~7) 4-Hydroxybenzoic acid (99-96-7).¶
(2~~6~~8) Ethylbenzene (100-41-4).¶
(2~~7~~9) Styrene (100-42-5).¶
(~~28~~30) 4-Nonylphenol (104-40-5).~~¶~~
~~(29~~; 4-NP and its isomer mixtures including CAS 84852-15-3 and CAS 25154-52-3. ¶
(31) 4-Chloroaniline (106-47-8).¶
(3~~0~~2) Acrylonitrile (107-13-1).¶
(3~~1~~3) Ethylene glycol (107-21-1).¶
(3~~2~~4) Toluene (108-88-3).¶
(3~~3~~5) Phenol (108-95-2).¶
(3~~4~~6) 2-Methoxyethanol (109-86-4).¶
(3~~5~~7) Ethylene glycol monoethyl ether (110-80-5).¶
(3~~6~~8) Triphenyl phosphate (TPP) (115-86-6).¶
(3~~7~~9) Tris(2-chloroethyl) phosphate (TCEP) (115-96-8).¶
(~~38~~40) Di-2-ethylhexyl phthalate (DEHP) (117-81-7).¶
(~~39~~41) Di-n-octyl phthalate (DnOP) (117-84-0).¶
(4~~0~~2) Hexachlorobenzene (118-74-1).¶
(4~~1~~3) 3,3'-Dimethylbenzidine and Dyes Metabolized to 3,3'-Dimethylbenzidine (119-93-7).¶
(4~~2~~4) Ethyl paraben (120-47-8).¶
(4~~3~~5) 1,4-Dioxane (123-91-1).¶
(4~~4~~6) Tetrachloroethene (127-18-4).¶
(4~~5~~7) Benzophenone-2 (Bp-2) (131-55-5).¶
(4~~6~~8) 4-tert-Octylphenol (140-66-9).¶
(4~~7~~9) Estragole (140-67-0).¶
(~~48~~50) 2-Ethylhexanoic acid (149-57-5).¶
(~~49~~51) Pentachlorobenzene (608-93-5).¶
(5~~0~~2) Bisphenol F (BPF) (620-92-8).¶

(53) C.I. Solvent yellow 14 (842-07-9).¶
(514) N-Methylpyrrolidone (872-50-4).¶
(525) Decabromodiphenyl ether (BDE-209) (1163-19-5).¶
(536) Ethylhexyl diphenyl phosphate (EHDPP) (1241-94-7).¶
(57) Perfluorooctane sulfonic acid and its salts; PFOS (1763-23-1).¶
(548) 4-Octylphenol (1806-26-4).¶
(559) 2-Ethyl-hexyl-4-methoxycinnamate (5466-77-3).¶
(560) Mercury ~~(7439-97-6) and~~& mercury compounds ~~including methyl mercury (22967~~(7439-9~~2~~7-6).¶
(~~57~~61) Antimony and Antimony compounds (7440-36-0).¶
(~~58~~62) Arsenic and Arsenic compounds (7440-38-2), including arsenic trioxide (1327-53-3) and dimethyl arsenic (75-60-5).¶
(~~59~~63) Cadmium and cadmium compounds (7440-43-9).¶
(604) Cobalt and cobalt compounds (7440-48-4).¶
(~~61~~5) Tris(1-chloro-2-propyl) phosphate (TCPP) (13674-84-5).¶
(~~62~~6) Tris(1,3-dichloro-2-propyl) phosphate (TDCPP) (13674-87-8).¶
(~~63~~7) Butylated hydroxyanisole (BHA) (25013-16-5).¶
(~~64~~8) Hexabromocyclododecane (25637-99-4).¶
(~~65~~9) Diisodecyl phthalate (DIDP) (26761-40-0).¶
(~~66~~70) Diisononyl phthalate (unbranched) (DINP) (28553-12-0).¶
(~~67~~1) Short-chain chlorinated paraffins (SCCP) (85535-84-8).¶
(~~68~~72) Chlorinated paraffins (108171-26-2).¶
(73) 2-ethylhexyl-2,3,4,5-tetrabromobenzoate (TBB) (183658-27-7).
Statutory/Other Authority: ORS 413.042, ORS 431A.255
Statutes/Other Implemented: ORS 431A.255

AMEND: 333-016-2035

RULE SUMMARY: Amend OAR 333-016-2035 Exhibit A. Practical Quantification Limits (PQLs) and detection methods were added for the five chemicals proposed to be added to OAR 333-016-2020. Detection methods and PQLs for the 68 HPCCCH currently in effect as well as the five HPCCHs proposed to be added were added or amended to align with Washington's CHCCs list.

CHANGES TO RULE:

333-016-2035
Manufacturer Disclosure of High Priority Chemicals of Concern for Childrens Health Used in Childrens Products: Practical Quantification Limits ¶

(1) The practical quantification limit for a chemical that is a contaminant is 100 parts per million.¶
(2) The practical quantification limits for intentionally added chemicals are the limits established in Exhibit A, incorporated by reference.
Statutory/Other Authority: ORS 413.042
Statutes/Other Implemented: ORS 431A.253 - 431A.280

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

Oregon Health Authority

OAR 333-016-2035

Exhibit A: Projected PQLs for the 7368 high priority chemicals of concern in children's products

	Chemical	CAS	PQL (ppm)	Method
1	Formaldehyde	50-00-0	5.0	Total Extraction/EPA 8315 or 82708315
2	Aniline	62-53-3	1.0	Total Extraction/EPA 8270
3	N-Nitrosodimethylamine	62-75-9	1.0	Total Extraction/EPA 8270
4	Benzene	71-43-2	1.0	Total Extraction/EPA 8260
5	Vinyl chloride	75-01-4	1.00.5	Total Extraction/EPA 8260
6	Acetaldehyde	75-07-0	1.0	Total Extraction/EPA 8315
7	Methylene chloride	75-09-2	1.0	Total Extraction/EPA 8260
8	Carbon disulfide	75-15-0	110.0	Total Extraction/EPA 8260
9	Methyl ethyl ketone	78-93-3	1.0	Total Extraction/EPA 8260
10	1,1,2,2-Tetrachloroethane	79-34-5	1.0	Total Extraction/EPA 8260
11	Tetrabromobisphenol A (TBBPA)	79-94-7	5020.0	Total Extraction/EPA 16943540/GCMS
12	Bisphenol A (BPA)	80-05-7	201.0	Total Extraction/EPA 16948720
13	Bisphenol S[§] (BPS)	80-09-1	1.0	Total Extraction/EPA 1694
14	Dicyclohexyl phthalate (DCHP)	84-61-784-61-7	25.025.025.0	CPSC-CH-C1001-09.3
15	Diethyl phthalate (DEP)	84-66-2	5.025.0	CPSC-CH-C1001-09.3
16	Diisobutyl phthalate (DIBP)	84-69-5	25.025.0	CPSC-CH-C1001-09.3
17	Di-n-butyl phthalate (DBP)	84-74-2	25.0	CPSC-CH-C1001-09.38720
18	Di-n-hexyl phthalate (DnHP)	84-75-3	25.0	CPSC-CH-C1001-09.38720
19	Butyl benzyl phthalate (BBP)	85-68-7	25.0	CPSC-CH-C1001-09.38720
20	N-Nitrosodiphenylamine	86-30-6	1.0	Total Extraction/EPA 87208270
21	Hexachlorobutadiene (HCBDDB)	87-68-3	530.0	Total Extraction/EPA 87208260
2022	Propyl paraben	94-13-3	530.0	HPLCTotal Extraction/EPA 8321
23	Butyl paraben	94-26-8	530.0	Total Extraction/EPA 8321HPLC
24	2-Aminotoluene	95-53-4	1.0	Total Extraction/EPA 8720
25	2,4-Diaminotoluene	95-80-7	10.0	Total Extraction/EPA 8270GC/MS
26	Methyl paraben	99-76-3	5.0	Total Extraction/EPA 8321HPLC
27	4-Hydroxybenzoic acid	99-96-7	510.0	Total Extraction/HPLC[i]
28	Ethylbenzene	100-41-4	1.0	Total Extraction/EPA 8260
29	Styrene	100-42-5	1.0	Total Extraction/EPA 8260
30	4-Nonylphenol[ll]; 4-NP and its isomer mixtures including CAS 84852-15-3 and CAS 25154-52-3	104-40-5	10.0	Total Extraction/ EPA 8270/GC-MS[i]USGS 5-B2
31	4-Chloroaniline	106-47-8	160.0	Total Extraction/EPA 87208270
32	Acrylonitrile	107-13-1	1.0	Total Extraction/EPA 8260
3133	Ethylene glycol	107-21-1	405.0	Total Extraction/EPA 8015

34	Toluene	108-88-3	0.51.0	Total Extraction/EPA 8260

	Chemical	CAS	PQL (ppm)	Method
35	Phenol	108-95-2	160.0	Total Extraction/EPA 8270
36	2-Methoxyethanol	109-86-4	10.0	Total Extraction/EPA 8015
37	Ethylene glycol monoethyl ether	110-80-5	10.0	Total Extraction/EPA 8015
38	Triphenyl phosphate (TPP)	115-86-6	50.0	Total Extraction/EPA 8270
39	Tris(2-chloroethyl) phosphate (TCEP)	115-96-8	50.0	Total Extraction/EPA 8270
40	Di-2-ethylhexyl phthalate (DEHP)	117-81-7	250.0	CPSC-CH-C1001-09.38270
41	Di-n-octyl phthalate (DnOP)	117-84-0	25.0	CPSC-CH-C1001-09.38270
42	Hexachlorobenzene	118-74-1	130.0	Total Extraction/EPA 8270
43	3,3'-Dimethylbenzidine and Dyes Metabolized to same3,3'-Dimethylbenzidine	119-93-7	10.0	Total Extraction/EPA 8270
44	Ethyl paraben	120-47-8	530.0	Total Extraction/EPA HPLC8321
45	1,4-Dioxane	123-91-1	201.0	8720/many Total Extraction/EPA 8260
46	Tetrachloroethene	127-18-4	0.5	Total Extraction/EPA 82600/many
47	Benzophenone-2 (Bp-2)	131-55-5	520.0	Total Extraction/ GC-FID[i]
48	4-tert-Octylphenol	140-66-9	10.0	Total Extraction/ GC-MS[i]USGS 5-B2
49	Estragole	140-67-0	10.0	Total Extraction/ GC-MS[i]IFRA GCMS
50	2-Ethylhexanoic Acid	149-57-5	51.0	Total Extraction/ GC-MS[i]Not given
51	Pentachlorobenzene	608-93-5	1.0	Total Extraction/EPA 8270
52	Bisphenol F (BPF)	620-92-8	1.0	Total Extraction/ EPA 1694
53	C.I. Solvent Yellow 14	842-07-9	1.0	Total Extraction/ LC-M/MS[i1]
54	N-Methylpyrrolidone	872-50-4	501.0	Total Extraction/ 8015/8270
55	Decabromodiphenyl ether (BDE-209)	1163-19-5	10.0	Total Extraction/ 8270
56	Ethylhexyl diphenyl phosphate (EHDPP)	1241-94-7	50.0	Total Extraction/ GC-MS[i]
57	Perfluorooctane sulfonic acid and its salts; (PFOS)	1763-23-1	01.001	Total Extraction/ LC-M/MS[i]EPA PFOA
58	4-Octylphenol	1806-26-4	10.0	Total Extraction/ GC-MS[i]USGS 5-B2
59	2-Ethyl-hexyl-4-methoxycinnamate	5466-77-3	5.0	Total Extraction/ HPLC
60	Mercury (7439-97-6) & mercury compounds includingmethyl mercurMercury & mercury compounds	7439-97-6	0.5	Total Digestion/ EPA[2]EPA[ii]
61	Antimony & Antimony compounds	7440-36-0	1.0	Total Digestion (EPA 3052)/ EPA 6020[iii]EPA[3]
62	Arsenic & Arsenic compounds including arsenic trioxide e (1327-53-3) and dimethyl arsenic (75-60-5)	7440-38-2	1.0	Total Digestion (EPA 3052)/ EPA 6020[ii]EPA[3]
63	Cadmium & cadmium compounds	7440-43-9	1.0	Total Digestion (EPA 3052)/ EPA 6020[ii]EPA[3]
64	Cobalt & Cobalt compounds	7440-48-4	1.0	Total Digestion (EPA 3052)/ EPA

				6020[ii]~~EPA[3]~~
65	Tris(1-chloro-2-propyl) phosphate (TCPP)	13674-84-5	50.0	Total Extraction/ EPA 8270
66	Tris(1,3-dichloro-2-propyl) phosphate (TDCPP)	13674-87-8	50.0	Total Extraction/ EPA 8270
67	Butylated hydroxyanisole (BHA)	25013-16-5	10.0	Total Extraction/ GC-MS[i]~~USGS 5-B2~~
68	Hexabromocyclododecane	25637-99-4	~~10~~50.0	Total Extraction/ EPA 1694~~3540/GCMS~~

	Chemical	CAS	PQL (ppm)	Method
69	Diisodecyl phthalate (DIDP)	26761-40-0	2550.0	CPSC-CH-C1001-09.38270
70	Diisononyl phthalate (unbranched) (DINP)	28553-12-0	2550.0	CPSC-CH-C1001-09.38270
71	Short-chain chlorinated paraffins (SCCP)	85535-84-8	50.0	Total Extraction/ GC-MS[i]
72	Chlorinated paraffins	108171-26-2	50.0	Total Extraction/ GC-MS[i]
73	2-ethylhexyl-2,3,4,5-tetrabromobenzoate (TBB)	183658-27-7	50.0	Total Extraction/ EPA 8270

[i] Washington Department of Ecology has determined the instrumentation used for some applications may not be applicable to all product matrices.
HPLC = high performance liquid chromatography
GC-FID = gas chromatography-flame ionization detector
GC-MS = gas chromatography-mass spectrometry
LC-MS/MS = liquid chromatography tandem-mass spectrometry

[ii] EPA = SW-846 general method 6020 or appropriate SW-846 7000 metal specific analysis, https://www.epa.gov/hw-sw846

[iii] Hydrofluoric acid only needed with a glass matrix

AMEND: 333-016-2060

RULE SUMMARY: Amend OAR 333-016-2060 Notification Requirements. Temporary amendments were made to OAR 333-016-2060 effective August 26, 2021 (Temporary Administrative Order PH 40-2021) and this rulemaking seeks to make those changes permanent. Two clarifications are made in this rule: a) for purposes of this rule, "unit" has the same meaning as "component part" as that is defined in OAR 333-016-2010; and b) it specifies that the amount of a chemical used in each unit within each product category is to be reported and, if there are multiple concentrations for a given unit in a particular product category, the unit with the highest concentration is to be reported.

CHANGES TO RULE:

333-016-2060
Notification Requirements ¶

(1) For purposes of this rule, "unit" has the same meaning as "component part" as that is defined in OAR 333-016-2010.¶
(2) No later than January 1, 2018, and every other year thereafter, a manufacturer of a children's product sold or offered for sale in this state that contains a HPCCCH listed in OAR 333-016-2020 in an amount at or above a de minimis level must submit:¶
(a) A notice to the Authority that contains all the information required in these rules, unless the manufacturer or product is exempt; and¶
(b) A nonrefundable fee of $250 for the notification of each HPCCCH as specified in OAR 333-016-2080.¶
(~~2~~3) The first manufacturer's notice due on January 1, 2018, applies to children's products sold or offered for sale in this state between January 1, 2017 and December 31, 2017.¶
(~~3~~4) Subsequent manufacturer reports are due on January 1st of even numbered years for the previous two-year biennial notice period. For example, for the reporting year 2020, a manufacturer must include children's products sold or offered for sale between January 1, 2018, and December 31, 2019, that contain a HPCCCH listed in OAR 333-016-2020.¶
(4~~1~~5) The notice required in section (~~1~~2) of this rule must include the following:¶
(a) The name and Chemical Abstracts Service Registry Number of the chemical contained in the children's product;¶
(b) The product category of the children's product that contains the chemical;¶
(c) A description of the function of the chemical in the children's product;¶
(d) The amount of the chemical used in each unit within each product category. The amount of the chemical used in each unit of the children's product is to be reported as a range rather than an exact amount~~;~~. If there are multiple concentrations for a given unit in a particular product category, the manufacturer must use the highest concentration for reporting.¶
(e) The target age category for whom the children's product is intended, either ages 0-3, 3-12 or 0-12 years-old.~~;~~¶
(f) The number of the children's product that contain the high priority chemical either sold or offered for sale in Oregon during the biennial notice period;~~-~~¶
(g) The name and address of the manufacturer, and the name, address and telephone number of the contact person for the manufacturer;¶
(h) The name, address and contact information for the trade association submitting the notification on behalf of the affected industry; and¶
(i) Any other information that the manufacturer deems relevant to the appropriate use of the children's product.¶
(~~5~~6) No later than January 1, 2020, and every other year thereafter, notices to the Authority shall be submitted utilizing the Interstate Chemicals Clearinghouse's High Priority Chemicals Data System (HPCDS) or alternate data system designated by the Authority. A link to the data system will be made available on the Toxic Free Kids Program website: www.healthoregon.org/toxicfreekids.~~-~~¶
(~~6~~7) If a manufacturer, required to report under ORS 431A.258, is acquired by another business entity, merges into another business entity or separates into distinct business entities, the new controlling entity must submit the required biennial notices to the Authority.¶
(~~7~~8) If a manufacturer has included a children's product in a notice required under these rules, and determines that there is no change to the information for the product except the number of products sold or offered for sale submitted to the Authority in the previous notice, the manufacturer may, in lieu of including the children's product again in a subsequent notice, submit a written statement, or if available, an electronic notification indicating that the previous reported data is still valid for that children's product. The notification shall include the number of products sold or offered for sale during the biennial notice period.¶

(~~8~~9) A trade association may provide the notice required in these rules on behalf of a member manufacturer. If a trade association reports on a member manufacturer's behalf, the trade association must specify which member or members the association is reporting on behalf of, including the name and contact information of a representative for each of those members, and must submit the fees for each member as required in OAR 333-016-2080.¶
(~~9~~10) A trade association who fulfills the notice or exemption from notice requirements as well as waiver or hazard assessment requests in these rules on behalf of a member manufacturer will not be held liable for a violation or penalty as a result of the member manufacturer's noncompliance with the requirements of these rules.¶
(1~~0~~1) A manufacturer may, during the notification process, submit to the Authority recommendations regarding technical, financial or logistical support considered necessary for the implementation of innovation and green chemistry solutions related to HPCCCH used in children's products.¶
(1~~1~~2) Only one person or entity that falls within the definition of manufacturer is required to report with respect to a particular children's product. The Authority will hold the following primarily responsible for ensuring that it receives a complete, accurate, and timely notice for the children's product, in the following order:¶
(a) Any person or entity that manufactured the children's product, unless it has no presence in the United States.¶
(b) Any person or entity that distributed or made available for distribution the children's product, unless it has no presence in the United States.¶
(c) The importer or owner of the children's product in the United States.¶
(1~~2~~3) The Authority will enforce the reporting requirements in this rule against a manufacturer in the same order as the priority order for reporting in section (1~~1~~2) of this rule.¶
(1~~3~~4) If a manufacturer has included a children's product in a notice required under these rules, and removes the HPCCCH from that children's product it shall, within 180 days of removal, submit a written statement, or if available, an electronic notification indicating the HPCCCH that was removed, whether another HPCCCH was substituted and the date the removal was effective, unless the Authority has already been notified under OAR 333-016-3010(1). Such notification will help the Authority avoid any unnecessary enforcement actions because of a failure to report or failure to comply with the other requirements of these rules.
Statutory/Other Authority: ORS 413.042, 431A.258
Statutes/Other Implemented: ORS 431A.258