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ARCHIVES DIVISION
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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 333
OREGON HEALTH AUTHORITY
PUBLIC HEALTH DIVISION

FILED
07/14/2018 9:44 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Toxic Free Kids Rule Revision

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 08/22/2018 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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Filed By:
Brittany Hall
Rules Coordinator

HEARING(S)

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

DATE: 08/16/2018

TIME: 9:00 AM

OFFICER: Jana Fussell

ADDRESS: Portland State Office

Building

800 NE Oregon St. Room 1D

Portland, OR 97232

NEED FOR THE RULE(S):

ORS 431A.250 requires 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. To improve the law's implementation and in accordance with its provisions, the Authority proposes to amend Oregon Administrative Rules pertaining to the following: the list of Chemicals of High Concern for Children's Health; Notification Requirements; Enforcement and Civil Penalties; and Fees.

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. The Authority proposes to add (to OAR 333-016-2020) five of the 20 chemicals that were added to Ecology's list, and remove the three chemicals that Ecology removed from their list. [ORS 431A.255 limits the number of chemicals that may be added to the HPCCCH list to five every three years.] Please see proposed text for further details on the chemicals that have been added and removed.

B) The modification of OAR 333-016-2060, Notification Requirements makes two clarifications: a) that it is only necessary for one person or entity to report (biennial notification) with respect to a particular children's product; and b) it specifies the hierarchy of persons or entities the Authority will hold primarily responsible for ensuring that the Authority receives a complete, accurate, and timely report for the children's product. It also specifies in rule that the number of children's products sold or offered for sale in Oregon that contain a HPCCCH must be part of a biennial notification. (This aligns rule requirement with existing statute.)

C) The modification of OAR 333-016-2080, Fees is needed due to the enactment of HB 5027 (Oregon Laws 2017, chapter 546) in July 2017. Once signed by Governor Brown, HB 5027 adopted in statute one fee relating to OAR 333-016-2060, Notification Requirements (\$250 per chemical). HB 5027 also enacted two fees relating to OAR 333-016-2070, Exemptions from Notice Requirement: 1) a \$1,500 nonrefundable Exemption Request fee and 2) a \$200 per hour fee for review of these Exemption Requests submitted to the Authority. Before HB 5027, OAR 333-016-2080, Fees required those seeking exemption from notice requirements to pay an initial fee of \$12,000 for review of a Manufacturing Control Program (MCP) submitted in support of an Exemption Request, and additional MCP review fees in increments of \$12,000, if needed. MCP reviews were set at \$200 per hour with paid fees refundable if unspent. HB 5027 allows the Authority to directly invoice those seeking an Exemption Request at \$200 per hour for MCP review. The intention of this rule change is to align the fee listed in rule with statute.

D) The modification of OAR 333-016-2090, Enforcement and Civil Penalties states the Authority will use the same hierarchy proposed for OAR 333-016-2060, Notification Requirements for enforcement purposes.

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>

State of Washington, Department of Ecology, Children's Safe Products Act Reporting Rule and guidance documents.

<http://apps.leg.wa.gov/wac/default.aspx?cite=173-334-090> and

<https://fortress.wa.gov/ecy/publications/documents/1704040.pdf>

<https://fortress.wa.gov/ecy/publications/documents/1704021.pdf>

FISCAL AND ECONOMIC IMPACT:

A) The changes to OAR 333-016-2020, Chemicals of High Concern to Children will have both a positive and negative impact on manufacturers in Oregon. Manufacturers will not need to report on chemicals that have been removed, but will need to report on chemicals added to the list at the next reporting deadline (January 1, 2020). 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, 2020). Conversely, removing three HPCCCH from the list will result in manufacturers not having to pay the \$250 notification by the next reporting period for those chemicals removed from the list.

B) The modification of OAR 333-016-2060, Notification Requirements provides a "hierarchy of notification" to further specify the order by which a person or entity selling/offering for sale children's products covered by the Oregon Toxic-Free Kids Act needs to report. Clarifying the order in which entities will be held responsible for reporting in OAR 333-016-2060 may result in a decrease in double reporting by industry and more efficient enforcement action by the Authority. Specifying in rule that the number of children's products sold or offered for sale in Oregon that contain a HPCCCH must be reported directly aligns rule with requirements in ORS 431A.280.

C) The modification of OAR 333-016-2080, Fees with fee language in statute is not expected to have fiscal impact since the actual fee amounts (\$1,500 nonrefundable Exemption Request fee and \$200 per hour review fee) are the same as those currently in statute. This change is being made to align rule with statute.

D) The modification of OAR 333-016-2090, Enforcement and Civil Penalties with the same "hierarchy of notification" as proposed for OAR 333-016-2060, Notification Requirements clarifies the order in which the Authority will enforce OAR 333-016-2060, Notification Requirements. It will result in more efficient enforcement action by the Authority, the result of which may increase penalties levied on some manufacturers, but decrease them for others.

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 and removal of three 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 required to provide notification to the Authority. Impact to the Authority is minimal.

B) The modification of OAR 333-016-2060, Notification Requirements is not expected to have any cost of compliance impact on local governments or the public. It is likely to make enforcement more efficient and effective for state agencies and thereby be a cost savings. Specifying in rule that the number of children's products sold or offered for sale in Oregon that contain a HPCCCH must be reported allows state agencies to fulfill an aspect of ORS 431A.280.

C) The modification of OAR 333-016-2080, Fees is not expected to have any cost of compliance impact on local governments or the public. Regarding the fee for review of Exemption Requests, the change from requesting such fees upfront from those submitting Exemption Requests (in \$12,000 increments) to a \$200 per hour review fee (to be invoiced by the Authority), is expected to reduce processing costs for the Authority. It will also align rule with statute.

D) The modification of OAR 333-016-2090, Enforcement and Civil Penalties is not expected to have any cost of compliance impact on local governments or the public. It is likely to make enforcement more efficient and effective for state agencies and thereby be a cost savings.

(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 distributor. 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 distributor. 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, 333-016-2060, 333-016-2080, 333-016-2090

AMEND: 333-016-2020

RULE SUMMARY: Per ORS 431A.255, the Authority is to review and amend OAR 333-016-2020, Chemicals of High Concern to Children (CHCC) every three years from date rule first became effective (January 1, 2016). Specifically, 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. Therefore, the Authority proposes to add (to OAR 333-016-2020) five of the 20 chemicals that were added to Ecology's list, and remove the three chemicals that Ecology removed from their list.

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 (79-94-7).¶¶
- (12) Bisphenol A (80-05-7).¶¶
- (13) Bisphenol S (80-09-1).¶¶
- ~~(14) Diethyl phthalate (84-66-2).¶¶~~
- ~~(145) Dibutyl phthalate (84-74-2).¶¶~~
- ~~(156) Di-n-hexyl phthalate (84-75-3).¶¶~~
- ~~(16) Phthalic anhydride (85-44-9).¶¶~~
- (17) Butyl benzyl phthalate (BBP) (85-68-7).¶¶
- (18) N-Nitrosodiphenylamine (86-30-6).¶¶
- (19) Hexachlorobutadiene (87-68-3).¶¶
- (20) Propyl paraben (94-13-3).¶¶
- (21) Butyl paraben (94-26-8).¶¶
- (22) 2-Aminotoluene (95-53-4).¶¶
- (23) 2,4-Diaminotoluene (95-80-7).¶¶
- (24) Methyl paraben (99-76-3).¶¶
- (25) p-Hydroxybenzoic acid (99-96-7).¶¶
- (26) Ethylbenzene (100-41-4).¶¶
- (27) Styrene (100-42-5).¶¶
- (28) 4-Nonylphenol (104-40-5); 4-NP and its isomer mixtures including CAS 84852-15-3 and CAS 25154-52-3.¶¶
- (29) para-Chloroaniline (106-47-8).¶¶
- (30) Acrylonitrile (107-13-1).¶¶
- (31) Ethylene glycol (107-21-1).¶¶
- (32) Toluene (108-88-3).¶¶
- (33) Phenol (108-95-2).¶¶
- (34) 2-Methoxyethanol (109-86-4).¶¶
- (35) Ethylene glycol monoethyl ester (110-80-5).¶¶
- ~~(36) Triphenyl phosphate (115-86-6).¶¶~~
- ~~(37) Tris(2-chloroethyl) phosphate (115-96-8).¶¶~~
- ~~(378) Di-2-ethylhexyl phthalate (117-81-7).¶¶~~

- (389) Di-n-octyl phthalate (DnOP) (117-84-0).¶
- (3940) Hexachlorobenzene (118-74-1).¶
- (401) 3,3'-Dimethylbenzidine and Dyes Metabolized to 3,3'-Dimethylbenzidine (119-93-7).¶
- (412) Ethyl paraben (120-47-8).¶
- (423) 1,4-Dioxane (123-91-1).¶
- (434) Perchloroethylene (127-18-4).¶
- (445) Benzophenone-2 (Bp-2); 2,2',4,4'-Tetrahydroxybenzophenone (131-55-5).¶
- (456) 4-tert-Octylphenol; 4(1,1,3,3-Tetramethylbutyl) phenol (140-66-9).¶
- (467) Estragole (140-67-0).¶
- (478) 2-Ethylhexanoic acid (149-57-5).¶
- ~~(48) Octamethylcyclotetrasiloxane (556-67-2).¶~~
- (49) Benzene, Pentachloro (608-93-5).¶
- (50) C.I. Solvent yellow 14 (842-07-9).¶
- (51) N-Methylpyrrolidone (872-50-4).¶
- (52) 2,2',3,3',4,4',5,5',6,6'-Decabromodiphenyl ether; BDE-209 (1163-19-5).¶
- (53) Perfluorooctanyle sulfonic acid and its salts; PFOS (1763-23-1).¶
- (54) Phenol, 4-octyl (1806-26-4).¶
- (55) 2-Ethyl-hexyl-4-methoxycinnamate (5466-77-3).¶
- (56) Mercury (7439-97-6) and mercury compounds including methyl mercury (22967-92-6).¶
- ~~(57) Molybdenum and molybdenum compounds (7439-98-7).¶~~
- ~~(58) Antimony and Antimony compounds (7440-36-0).¶~~
- (598) Arsenic and Arsenic compounds (7440-38-2), including arsenic trioxide (1327-53-3) and dimethyl arsenic (75-60-5).¶
- ~~(6059) Cadmium and cadmium compounds (7440-43-9).¶~~
- (610) Cobalt and cobalt compounds (7440-48-4).¶
- (61) Tris(1-chloro-2-propyl) phosphate (13674-84-5).¶
- (62) Tris(1,3-dichloro-2-propyl) phosphate (13674-87-8).¶
- (63) Butylated hydroxyanisole; BHA (25013-16-5).¶
- (64) Hexabromocyclododecane (25637-99-4).¶
- (65) Diisodecyl phthalate (DIDP) (26761-40-0).¶
- (66) Diisononyl phthalate (DINP) (28553-12-0).¶
- (67) Short-chain chlorinated paraffins (85535-84-8).¶
- (68) 2-ethylhexyl-2,3,4,5-tetrabromobenzoate (183658-27-7).
- Statutory/Other Authority: OL-2015, ch. 786, sec. 3RS 413.042, ORS 431A.255
- Statutes/Other Implemented: OL-2015, ch. 786, sec. 3RS 431A.255

AMEND: 333-016-2060

RULE SUMMARY: OAR 333-016-2060 is being amended to clarify the need for only one report (biennial notification) of a specific children's product. Amendments are also made to establish a hierarchy of persons or entities the Authority will hold primarily responsible for reporting and with respect to enforcement, per OAR 333-016-2090, Enforcement and Civil Penalties. OAR 333-016-2060 is also being amended to align rule with existing statute to require that the number of children's products sold or offered for sale in Oregon that contain a HPCCCH must be part of a biennial notification

CHANGES TO RULE:

333-016-2060

Notification Requirements ¶

(1) 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) Any applicable fee in OAR 333-016-2080.¶

(2) 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) Future notices apply to children's products sold or offered for sale during the previous two year 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) The notice required in section (1) 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 of the children's product reported as a range rather than an exact amount;¶

(e) 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;¶

(f) The name and address of the manufacturer, and the name, address and telephone number of the contact person for the manufacturer; or¶

(fg) The name, address and contact information for the trade association submitting the notification on behalf of the affected industry; and¶

(gh) Any other information that the manufacturer deems relevant to the appropriate use of the children's product.¶

(5) The second biennial notice will cover the period of January 1, 2018 through December 31, 2020~~19~~.¶

(6) 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 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.¶

(7) A trade association may provide the notice required in these rules on behalf of a member manufacturer.¶

(8) A trade association who fulfills the notice or exemption requirements of 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.¶

(9) 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.¶

(10) 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.¶

(11) 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 (10) of this rule.

Statutory/Other Authority: ORS 413.042, 431A.258

Statutes/Other Implemented: ORS 431A.258

AMEND: 333-016-2080

RULE SUMMARY: OAR 333-016-2080 is amended to align rule with statute due to the passage of HB 5027 (Oregon Laws 2017, chapter 546) in the 2017 legislative session. HB 5027 adopted in statute one fee relating to OAR 333-016-2060, Notification Requirements (\$250 per chemical), and enacted two fees relating to OAR 333-016-2070, Exemptions from Notice Requirement:

- A) A \$1,500 nonrefundable Exemption Request fee; and
- B) A \$200 per hour fee for review of these Exemption Requests submitted to the Authority.

Before HB 5027, OAR 333-016-2080, Fees required those seeking exemption from notice requirements to pay an initial fee of \$12,000 for review of a Manufacturing Control Program (MCP) submitted in support of an Exemption Request, and additional MCP review fees in increments of \$12,000, if needed. MCP reviews, set at \$200 per hour, were deducted from those \$12,000 increments with those fee increments refundable if unspent. HB 5027 allows the Authority to directly invoice those seeking an Exemption Request at \$200 per hour for MCP review. The intention of this rule change is to align the fee listed in rule with statute.

CHANGES TO RULE:

333-016-2080

Fees ¶¶

The following fees are established:¶¶

- (1) Notification. A nonrefundable fee of \$250 for the notification of each HPCCCH reported to the Authority under OAR 333-016-2060(1).¶¶
- (2) Exemption request:¶¶
 - (a) A non-refundable fee of \$1,500; and¶¶
 - (b) An initial fee of \$12,000 for the review of a Manufacturing Control Program; and¶¶
 - (c) Additional Manufacturing Control Program review fees in increments of \$12,000, if applicable.¶¶
- (3) The fee for review of a Manufacturing Control Program is \$200 per hour.¶¶
 - (a) The Authority shall refund any unexpended portion of Manufacturing Control Program fees submitted under subsection (2)(b) or (c) of this rule.¶¶
 - (b) If the cost of the review exceeds the initial \$12,000, the Authority shall notify the applicant and request an additional \$12,000. If the cost of review exceeds any subsequent incremental fee of \$12,000, the Authority shall continue to request additional fees under subsection (2)(c) of this rule.¶¶
- (4) The fee for review of a Manufacturing Control Program is \$200 per hour.¶¶
- (3) The Authority shall not review a Manufacturing Control Program unless the fees required under this rule are paid by the manufacturer and a request for exemption may be denied on the basis that the required fees were not paid.

Statutory/Other Authority: ORS 413.042, 431A.270

Statutes/Other Implemented: ORS 431A.270

AMEND: 333-016-2090

RULE SUMMARY: OAR 333-016-2090 is being amended to state that the Authority will use the same hierarchy proposed for OAR 333-016-2060, Notification Requirements for enforcement purposes.

CHANGES TO RULE:

333-016-2090

Enforcement and Civil Penalties ¶¶

(1) The Authority may impose a civil penalty on a manufacturer for a violation of any provision of ORS 431A.258 or these rules. A civil penalty may not exceed:¶¶

(a) \$2,500 for the first violation.¶¶

(b) \$5,000 for the second and each subsequent violation.¶¶

(2) For purposes of assessing civil penalties under these rules a violation consists of a single course of conduct with regard to an entire children's product line that is sold or offered for sale in this state.¶¶

(3)(a) If a manufacturer violates the notification requirement described in ORS 431A.258 the Authority shall provide the manufacturer with written notice informing the manufacturer of the violation and stating that the manufacturer may avoid a civil penalty for the violation by providing the proper notice required under ORS 431A.258 within 90 days.¶¶

(ab) If the manufacturer fails to cure the violation within the first 90 days, the Authority may impose a civil penalty not to exceed \$2,500.¶¶

(c) For a continuing violation, each 90-day period that the violation continues after the preceding imposition of a civil penalty is considered a separate offense subject to a separate civil penalty not to exceed \$5,000. The Authority is not required to provide the manufacturer with an opportunity to cure the continuing violation before imposing the separate civil penalty.¶¶

(4) If the Authority has reason to believe that a children's product that contains a HPCCCH used in children's products is being sold or offered for sale in this state in violation of ORS 431A.258 the Authority may request that the manufacturer provide a statement of compliance on a form provided by the Authority. The manufacturer must submit the statement of compliance within 10 days after receipt of a request. To prove compliance with ORS 431A.258 the manufacturer must provide:¶¶

(a) Evidence that the children's product does not contain the HPCCCH used in children's products;¶¶

(b) Evidence that the manufacturer has previously provided the Authority with notice as required by ORS 431A.258 and these rules; or¶¶

(c) Provide the Authority with notice as required by ORS 431A.258 and OAR 333-016-2060.¶¶

(5) In imposing a penalty under these rules the Authority must consider the following factors:¶¶

(a) The past history of the manufacturer in taking all feasible steps or following all feasible procedures necessary or appropriate to correct any violation.¶¶

(b) Any prior violations of statutes, rules, orders or permits pertaining to HPCCCH used in children's products.¶¶

(c) The gravity and magnitude of the violation.¶¶

(d) Whether the violation was a sole event, repeated or continuous.¶¶

(e) Whether the violation was a result of an unavoidable accident, negligence or an intentional act.¶¶

(f) The violator's cooperativeness and efforts to correct the violation.¶¶

(g) The economic and financial conditions of the manufacturer incurring a penalty.¶¶

(h) The manufacturer's declaration that a HPCCCH used in a children's product is present only as a contaminant, and the manufacturer is able to provide evidence that a manufacturing control program for the contaminant that meets or exceeds the minimum requirements for a manufacturing control program in OAR 333-016-2070 was in place prior to the violation and that the manufacturer has exercised due diligence.¶¶

(6) Civil penalties will be imposed in the manner provided in ORS 183.745.¶¶

(7) The Authority will enforce the reporting requirements against a manufacturer in the same order as the priority order for reporting in OAR 333-016-2060(10).

Statutory/Other Authority: ORS 431A.275, ORS 413.042

Statutes/Other Implemented: ORS 431A.275