From: KISHIDA Koto
To: HICKMAN Jane;
cc: FOSTER Eugene P;
Subject: RE: RM-NPS: Question about EQC action
Date: Friday, June 14, 2013 10:59:24 AM

Thank you for your comments, Jane. I wrote my responses below.

Koto

From: HICKMAN Jane
Sent: Thursday, June 13, 2013 4:35 PM
To: KISHIDA Koto; 'Knudsen Larry'
Cc: FOSTER Eugene P
Subject: RE: RM-NPS: Question about EQC action

Slide 3, third note: "The process would be unique to Oregon." I would state there is no precedence or guidance for EPA review of rules governing nonpoint source, so it would be difficult to predict what EPA's findings would be and the result of those findings.

Thank you. I changed the notes.

Slide 4: First bullet, What is "stipulated order initiating rulemaking"? Do we mean that is when the stipulated order regarding the rulemaking was issued by the judge?

OK. I changed the slide to read

- Stipulated order issued

I meant that Stipulated order was issued and it directed DEQ to initiate rulemaking process. I have it in the notes.

Slide 5, last bullet, not clear what "remain consistent with state and federal regulations" means.

How about something like this?

- Amendments do not change the intent of federal and state regulations

I can't say that there are no fiscal or economic impacts but I think I can say that the amendments do not cause Div 41 to be inconsistent with federal and state regulations (statutes).

Slide 11, last bullet, I think "depend" is supposed to be "depending"

OK I changed that.

Regarding whether EPA must review the rule repeal as a standards change, I will defer to Larry on that (though I would think they are supposed to do that). But it might be more germane to ask EPA what its position is on that.
Jane

From: KISHIDA Koto
Sent: Thursday, June 13, 2013 2:13 PM
To: HICKMAN Jane; 'Knudsen Larry'
Cc: FOSTER Eugene P
Subject: RE: RM-NPS: Question about EQC action

Jane and Larry

I met with Gene and Greg and went over the presentation for EQC Meeting next week. Greg asked me to send you two the draft presentation as a heads up for the upcoming meeting and also for your review. If you see something in the attached presentation that concerns you, please let me know.

Greg also wants to know if EPA would need to formally review and approve the revised Division 41 if EQC decides to take action to remove the NPS provisions. He understands that there would be no NPS provisions to approve or disapprove, but wonders if EPA may still need to review Division 41 as a whole.

Thank you,
Koto

From: HICKMAN Jane
Sent: Wednesday, June 12, 2013 1:46 PM
To: 'Knudsen Larry'
Cc: KISHIDA Koto
Subject: RE: RM-NPS: Question about EQC action
Importance: High

Larry, Koto has prepared a slide for the EQC to list the options available to the EQC in considering repeal of the NPS provision, along with the anticipated outcome of each option. I think delaying repeal or holding additional hearings would be treated the same as taking no action. Can you please let me know if you have additional or different suggestions for the slide? Thank you. Jane

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From: KISHIDA Koto
Sent: Wednesday, June 12, 2013 12:48 PM
To: HICKMAN Jane
Subject: RM-NPS: Question about EQC action

Hi Jane

Thank you for taking a look.

- Adopt proposed rule amendments
  - No NPS provisions in Division 41 for EPA review
- Take no action
  - EPA ~~may~~ must review NPS provisions in Division 41 and take final action on the rules within approximately 95 days of the EQC meeting
  - Outcome of the review unclear
- ~~Delay or~~ Modify proposed rules
  - ~~Outcome of the action unclear, d~~ Depends~~ing~~ on ~~timeframe and~~ nature of modification, EPA will likely be required to review any rule revisions that affect achievement of water quality standards
- ~~Hold additional hearings~~
  - ~~Outcome of the action unclear, depends on timeframe and future EQC action~~

Koto