From: CURTIS Andrea
To: GARRAHAN Paul
Subject: RE: Rule Notice LRAPA open burning pg redline
Date: Thursday, May 09, 2013 12:22:00 PM
Attachments: RE NOTICE.AboutTheProposal-4.00.docx.msg

Paul, Thanks for your prompt review. I'll address your feedback. I have a question about the fiscal. It sounds like DEQ is required to produce a Fiscal Impact Statement. Is DEQ required to perform its own fiscal assessment for the LRAPA rules?

In your email attached, you say DEQ needs to duplicate the required notice, which includes the fiscal impact. Due to the passage of several years of time since LRAPA adopted some of these rules, DEQ should be sure to update the key analyses (need and fiscal impact especially) and not simply rely on the analyses LRAPA provided at the time they adopted the rules.

I received information from DEQ staff:

- The LRAPA/DEQ joint rulemaking contract does not address a DEQ approval of a LRAPA Fiscal Impact Statement.

- According to Maggie, there is no requirement for Financial Services to sign off on LRAPA's fiscal but there are requirements that Maggie sign off on the fiscal when submitting to SOS. Maggie relies on DEQ's Financial Services' approval. This tells me that Maggie doesn't think DEQ needs to produce its own analysis.

- Maggie thinks LRAPA's fiscal has language that raises flags; however, she thinks we can reword some of it. Maggie suggested we say in DEQ's fiscal that LRAPA did the Fiscal analysis. Then, DEQ's Financial Services would be comfortable approving it. Again, I interpret this to mean DEQ wouldn't be responsible for the analysis.

My take-away is that DEQ needs to have LRAPA update LRAPA's fiscal analysis. DEQ would use LRAPA's analysis in our fiscal statement, and we would not verify the accuracy of LRAPA's analysis. Because you say DEQ must duplicate the fiscal, we would have DEQ's Financial Services sign the fiscal (rather than simply unofficially approve it).

Am I on track?

Thanks,

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From: Garrahan Paul [mailto:paul.garrahan@state.or.us]
Sent: Thursday, May 09, 2013 11:46 AM
To: CURTIS Andrea
Cc: VANDEHEY Maggie; OLIPHANT Margaret
Subject: Rule Notice LRAPA open burning pg redline

Andrea: Attached are my suggested edits and comments on the notice for approval of LRAPA's 2008 open burning rules. I think this still needs quite a bit of work to get it ready. In particular, I don't think this yet sufficiently addresses the fact that it has been five years since LRAPA adopted these rules. I think that issue needs to be addressed especially in describing fiscal impact and notice/comment. Let me know if you would like me to take another look at it once you get it a little more refined.

Paul Garrahan
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