From: Garrahan Paul
To: CURTIS Andrea
Subject: RE: ODEQ / LRAPA meeting
Date: Friday, November 08, 2013 12:28:53 PM

Andrea: Yes, you can eliminate the table and streamline the description of the LRAPA rules that the EQC is reviewing for consistency with the CAA and state law. This is a not a case where the EQC is applying its own discretion and judgment regarding these rules. Its review is much more limited. That said, you should consider how this will look to the EQC and the public. If you don't provide enough description about the rules being considered, some might complain about the process. But provided you meet the minimum necessary, I don't think that will create a legal problem.

It is not required that you describe LRAPA's advisory committee, other than in your documentation that LRAPA followed appropriate rulemaking requirements when it adopted the rules.

[NOTE: This rulemaking is different because you're renoticing it as a stand-alone EQC rulemaking after LRAPA has already adopted these rules. For a new, joint rulemaking where LRAPA was providing notice and holding hearings on behalf of the EQC, the answers would be different.]

Paul Garrahan
Assistant Attorney-in-Charge, Natural Resources Section
Oregon Department of Justice
971-673-1943 (Portland Office; T, Th & F)
503-947-4593 (Salem Office; M & W)

From: CURTIS Andrea [mailto:CURTIS.Andrea@deq.state.or.us]
Sent: Friday, November 08, 2013 11:56 AM
To: Garrahan Paul
Subject: FW: ODEQ / LRAPA meeting

Paul,

For our LRAPA rulemakings – how much can I simplify the story?

I've returned to our rulemakings that would add LRAPA rules to the SIP. LRAPA kindly put verbiage from their rulemakings into DEQ's Notice forms. It is taking a lot of time for me to comb through the verbiage to make sure it all makes sense and answers the Notice form's questions.

For example, attached is the industrial streamlining Notice that you've seen.

1. In the in the statement of need, I don't know what most of the topics are. Can I provide a one-paragraph summary of why the rules are needed and eliminate the table? Is it important that we include the level of detail provided in the table? I'd like to eliminate most of the details.
2. DEQ didn't hold an advisory committee. Is it important to describe LRAPA's advisory committee? Can I eliminate all of the information related to LRAPA's holding of an advisory committee?

Thanks,

Andrea Curtis
Air Quality Division - Rules Coordinator
Oregon Department of Environmental Quality
503-229-5946
curtis.andrea@deq.state.or.us

From: Garrahan Paul [mailto:paul.garrahan@state.or.us]
Sent: Thursday, August 22, 2013 4:23 PM
To: CURTIS Andrea
Cc: OLIPHANT Margaret
Subject: FW: ODEQ / LRAPA meeting

Andrea: First, welcome back from your vacation and congratulations on your wedding!

After our discussion with EPA and LRAPA, Margaret and I were discussing this and she asked if I might suggest some language you could use in a couple spots in this notice of proposed rulemaking. Here are my suggestions.

In the second paragraph under "Brief history" on the first page, replace the sentence that begins "EQC approves and directs DEQ…" with the following:

"The EQC's role is to review LRAPA rules to determine if they are in compliance with state law and the CAA, approve those rules if they comply, and submit approved rules to EPA for federal approval as SIP amendments."

In place of the current language on the second page under "statement of need" insert:

"LRAPA has adopted significant changes to its permitting rules in an effort to maximize efficiencies in the program, while maintaining the existing level of environmental protection. In order for LRAPA and the state to maintain compliance with the CAA, the EQC must review LRAPA's rules and, if the EQC concludes that the rules comply with state law and the CAA, approve the rules and submit them to the EPA for approval and incorporation, as appropriate, into the federally-approved SIP."

I'm not sure whether you need to say anything more than that in this notice. There will be a staff report later in which you can explain that DEQ concludes that the rules comply with state law and the CAA and recommend that the EQC approve the rules and direct DEQ to submit them to EPA as SIP amendments.

Please let me know if there is any additional advice I can provide.

Paul Garrahan
Assistant Attorney-in-Charge, Natural Resources Section
Oregon Department of Justice

971-673-1943 (Portland Office; T, Th & F)
503-947-4593 (Salem Office; M & W)

From: OLIPHANT Margaret [mailto:OLIPHANT.Margaret@deq.state.or.us]
Sent: Wednesday, August 21, 2013 9:02 AM
To: Garrahan Paul
Subject: RE: ODEQ / LRAPA meeting

Yesterday, Merlyn Hough from LRAPA called me and was pulling his hair out about filling out the fee section of the public notice document, especially the section "This document provides transparency about DEQ's proposed fees." Should we even be doing something like that for LRAPA fees? Rules are not my specialty so it is difficult for me to provide guidance to Andrea. I need to just talk with you about the process. Andrea also mentioned that we have to notify all of LRAPA's sources about the rule making. These rules have been in existence for some time. I need a little guidance. Are we going too far in our efforts.

Thanks,
Margaret

From: Garrahan Paul [mailto:Paul.Garrahan@doj.state.or.us]
Sent: Wednesday, August 21, 2013 8:30 AM
To: OLIPHANT Margaret
Subject: RE: ODEQ / LRAPA meeting

Yes. Is there an aspect of those rules that you would like to discuss, so I can review it before I come to be prepared for our conversation?

Paul Garrahan
Assistant Attorney-in-Charge, Natural Resources Section
Oregon Department of Justice
971-673-1943 (Portland Office; T, Th & F)
503-947-4593 (Salem Office; M & W)

From: OLIPHANT Margaret [mailto:OLIPHANT.Margaret@deq.state.or.us]
Sent: Wednesday, August 21, 2013 8:23 AM
To: Garrahan Paul
Subject: RE: ODEQ / LRAPA meeting

Paul, will you have time to stay a few minutes after the meeting. I would like to discuss the old LRAPA rules that we are taking to the commission.

Thanks,
Margaret

From: Garrahan Paul [mailto:Paul.Garrahan@doj.state.or.us]
Sent: Friday, August 16, 2013 2:42 PM

To: COLLIER David; OLIPHANT Margaret; CAPP Carrie Ann
Cc: PAPISH Uri
Subject: RE: ODEQ / LRAPA meeting

I see this call is now on Thursday next week. I would prefer to come to DEQ for this call, if that works for you. Just let me know where you will gather (assuming that's what you will do). Thanks.

Paul Garrahan
Assistant Attorney-in-Charge, Natural Resources Section
Oregon Department of Justice
971-673-1943 (Portland Office; T, Th & F)
503-947-4593 (Salem Office; M & W)

From: COLLIER David [mailto:COLLIER.David@deq.state.or.us]
Sent: Friday, August 16, 2013 1:16 PM
To: 'Spenillo, Justin'; HOUGH Merlyn; GARRAHAN Paul; OLIPHANT Margaret; CAPP Carrie Ann
Cc: LANIER Robbye; PAPISH Uri
Subject: RE: ODEQ / LRAPA meeting

Thanks Justin. I could do Wednesday after 3:30 or Thursday at Noon, but not Thursday after 2:30. Margaret, Paul, and Carrie, what's your availability?

D

From: Spenillo, Justin [mailto:Spenillo.Justin@epa.gov]
Sent: Friday, August 16, 2013 11:25 AM
To: COLLIER David; HOUGH Merlyn
Cc: OLIPHANT Margaret; LANIER Robbye; PAPISH Uri
Subject: ODEQ / LRAPA meeting

David /Merlyn,

It was very good to see you both this week. I am following up to arrange a call next week regarding the relationship between LRAPA & ODEQ's rules in general and with respect to the infrastructure and PSD/NSR questions that came up recently.

We will aim to have the following from EPA on the call: Debra Suzuki, Julie Vergeront, Dave Bray and Kristin Hall, Claudia Vaupel, Donna Deneen, and Justin Spenillo.

Please include any of your managers or staff who you think would be appropriate. For the legal issues, we think it would be very helpful if Paul Garrahan (or other ODEQ and/or LRAPA attorneys) would be able to participate to assist with explaining the legal relationship.

Let me know if any of the below suggested times will work:

- Wednesday 8/21 after 3:30
- Thursday 8/22 at noon
- Thursday 8/22 after 2:30

I can arrange a line and other logistics once we find a suitable time.
Let me know if you have any questions or comments.

Thanks,

Justin

*****CONFIDENTIALITY NOTICE*****

This e-mail may contain information that is privileged, confidential, or otherwise exempt from disclosure under applicable law. If you are not the addressee or it appears from the context or otherwise that you have received this e-mail in error, please advise me immediately by reply e-mail, keep the contents confidential, and immediately delete the message and any attachments from your system.

****