From: CURTIS Andrea
To: "Garrahan Paul"
Subject: LRAPA rulemaking notice
Date: Thursday, July 25, 2013 4:05:48 PM
Attachments: Joint Rulemaking Process.docx

Paul,

I have a question for you about the four LRAPA rules that we're re-noticing.

Do we need to have any other special agreement in place for this scenario?

For the four LRAPA rules, we're operating outside of our Joint Rulemaking Process for LRAPA and DEQ, attached. Under that process, DEQ would send LRAPA a letter authorizing LRAPA to move ahead on behalf of the EQC regarding a joint LRAPA/DEQ public comment period and public hearing. Following this, LRAPA would proposes the rules to its Board. Then, DEQ would propose the rules to EQC.

For the four LRAPA rules, we're noticing the rules, but the LRAPA Board already adopted the rules. After the comment period, DEQ would go directly to EQC. Now, I think DEQ needs to send LRAPA a letter authorizing LRAPA to move ahead on behalf of the EQC regarding a joint LRAPA/DEQ public comment period and public hearing. Can you think of anything else that we need to document (or have a formal agreement about) for this special scenario?

Thanks,

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From: Garrahan Paul [mailto:Paul.Garrahan@doj.state.or.us]
Sent: Thursday, February 14, 2013 4:50 PM
To: VANDEHEY Maggie
Subject: RE: NOTICE.AboutTheProposal-4.00.docx

Maggie: I just left you a somewhat rambling voicemail message. The EQC will have to adopt these rules, not just ratify them. OAR 340-200-0040(2) requires the EQC to make all SIP revisions by rule (with the exception under subsection (3) that any EQC rules that LRAPA adopts verbatim may be directly submitted—I have not reviewed these particular rules, but I don't believe that exception applies here). Perhaps a statement to this effect is what you were requesting when you asked for a generally applicable blurb? It could read something like, "Under OAR 340-200-0040, the EQC must by rule approve all LRAPA rules that will be submitted to the EPA as SIP Amendments. The only exception to this requirement is when LRAPA "adopts verbatim any standard that the [EQC] has adopted," in which case DEQ may directly submit such SIP Amendment rules to EPA for approval.

The LRAPA rules presented here are not verbatim restatements of other EQC-approved rules."

You can use the Oakridge PM2.5 rule approval package as a guide/template for this. The big difference being that LRAPA has already approved all of these rules, so DEQ will now have to duplicate the required notice, need, fiscal impact, public hearing, and summary of public comments and responses elements of the rulemaking. And I note that, 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.

Also, in describing each of these sets of rules, I would recommend that they be addressed on their own merits—i.e., the rationale for why the EQC should adopt them is not because failing to adopt them will undermine the Oakridge PM2.5 plan (though that could be noted), but because they are needed on their own terms. Hopefully LRAPA pulled all of this information together when it adopted these rules, and DEQ will be able to use all of those materials as a reference to more quickly develop the rule submission and notice documents now—but updating them.

Please let me know if there are other particular questions that you would like to discuss. I held off getting into particular details. I think my detailed review may be more productive once these rulemakings are a little farther along in the process.

Paul Garrahan
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From: VANDEHEY Maggie [mailto:VANDEHEY.Maggie@deq.state.or.us]
Sent: Thursday, February 14, 2013 2:43 PM
To: Garrahan Paul
Subject: NOTICE.AboutTheProposal-4.00.docx

Hi Paul,

The standard Notice template has already been reviewed but if you see anything, please let me know. I would like you to look at how I brought LRAPA into the Notice. Attachment C is my first take on a document that DEQ staff can use to review LRAPA's documentation. Please make sure I'm not off based or missing something.

I'm thinking that bundling may be problematic at EQC adoption since EPA strongly advises us to submit them separately for a speedier turnaround. Please let me know what you think.

Any advice or direction will help.

Thank you,

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