From: Garrahan Paul
To: CURTIS Andrea
Subject: RE: RM-LRAPA: Draft Public Notice Preview, Closes Nov. 22, 2013
Date: Monday, November 18, 2013 2:17:24 PM
Attachments: image002.png

Andrea: Rather than say that DEQ did not review the rules for stringency, I recommend that you say that, because the rules consist of (1) technical, non-substantive corrections and (2) permitting standards for sources that are not required to be permitted under state rules, they therefore do not alter DEQ's conclusion that LRAPA's rules are "as stringent as comparable rules of DEQ." Although I don't think it necessarily matters whether the rules are more or less stringent than state rules, as a formal matter of EPA review and approval under the CAA*, I think it makes it that much easier for EPA to approve them if DEQ can say that it reviewed them and they're not less stringent than state rules. If you say, in essence, that you didn't even review them for stringency, I think that could result in EPA applying significantly more scrutiny. If stating it as I suggest in the first sentence of this email is still consistent with how DEQ reviewed those rules changes, then I think that's the way to go.

* It does matter under ORS 468A.135(2), which prohibits LRAPA from adopting rules that are "less strict than any" EQC rules and requires LRAPA to submit its rules to the EQC. This implies that the EQC should review the rules to ensure that they're "no less strict" than EQC rules. Hence, I think DEQ staff should include a statement as to why the rules are "no less strict," and not say that they didn't review the rules for stringency.

Let me know if you would like to discuss this further.

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: Monday, November 18, 2013 12:03 PM
To: Garrahan Paul
Subject: RE: RM-LRAPA: Draft Public Notice Preview, Closes Nov. 22, 2013

Paul,

You asked about stringency review of the 2010 permit streamlining rules. Is it sufficient to include a copy of the attached letter, which we'll also mail to LRAPA, saying: DEQ did not review the industrial streamlining updates and corrections for stringency because the rules corrected typographical errors and affected LRAPA's ability to permit small sources that are not permitted by DEQ.

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@doj.state.or.us]
Sent: Friday, November 15, 2013 2:43 PM
To: CURTIS Andrea
Subject: RE: RM-LRAPA: Draft Public Notice Preview, Closes Nov. 22, 2013

Andrea: I have just a few suggested edits and comments as noted in the attached documents. The "permit streamlining" document also includes one suggested edit that, if you choose to accept it, you should also make in the PM2.5/GHG document. That would be my only suggested edit to that document, so I have not included a copy of that here. Please let me know if you want to talk about any of this further.

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 15, 2013 1:46 PM
To: Garrahan Paul
Subject: FW: RM-LRAPA: Draft Public Notice Preview, Closes Nov. 22, 2013

Hi Paul,

I think we've addressed all of your suggestions for the LRAPA rulemakings. Would you please take a final look at the three rulemaking packets, attached?

Thanks,

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

From: GINSBURG Andy
Sent: Friday, November 15, 2013 1:29 PM
To: (All DEQ) Executive Management Team
Cc: VANDEHEY Maggie; OLIPHANT Margaret; CURTIS Andrea
Subject: RM-LRAPA: Draft Public Notice Preview, Closes Nov. 22, 2013

— Chapter 340, Division 200 Rulemaking Preview - Delete if not interested —

The public notice to incorporate Lane Regional Air Protection Agency rules into the State

Implementation Plan is ready for preview before we open the public comment period on Dec. 16, 2013. Though no action is required on your part, we will consider your input on the packet if we receive it by close of business on Nov. 22, 2013. To offer input, contact Andrea Curtis by email or 503-229-5946.

The rulemaking packets were created in consultation with DOJ and EPA.

Title – DEQ is performing three rulemakings corresponding to LRAPA's rulemakings:

1. Incorporate Lane Regional Air Protection Agency rules for **open burning** into State Implementation Plan
2. Incorporate Lane Regional Air Protection Agency rules for **permit streamlining** into State Implementation Plan
3. Incorporate Lane Regional Air Protection Agency Rules for **New Source Review, Prevention of Significant Deterioration and national emission standards** into State Implementation Plan

Notice Packet — Click here for the Notice documents, which are in the category Preview

- There are three "Invitation to Comment" – 2-page fact sheets
- There is one "Proposed Rules" – redline/strikethrough
- There are three "Notice" – information and analysis required by APA; Model Rules; DEQ statutes, rules and best practices; and federal regulations.

Proposal — In order for LRAPA and the state to maintain compliance with the Clean Air Act, EQC reviews LRAPA's rules and, if the EQC concludes that the rules comply with state law and the Clean Air Act, approve the rules and submit them to the EPA for approval and incorporation, as appropriate, into the federally-approved State Implementation Plan.

Need — The LRAPA rules have been in effect in Lane County since their adoption by the LRAPA Board of Directors several years ago. EQC adoption of DEQ's rulemaking would allow DEQ to submit the LRAPA rules to the Environmental Protection Agency for incorporation into the state's federally-approved implementation plan to protect air quality. Typically, DEQ submits LRAPA rules to EQC for incorporation into the State Implementation Plan upon adoption by the LRAPA Board. However, in this case, DEQ determined that the public notice process held jointly by DEQ and LRAPA several years ago did not meet requirements for State Implementation Plan rules, which are above and beyond requirements for normal rulemaking. Performing rulemaking is resource intensive and we were unable to perform the additional public notice requirements until now.

Affected parties — Parties were affected when LRAPA adopted its rules, including residential open burning and stationary emission sources (ACDP and Title V Permit holders) in Lane County.

Staff engagement — DEQ staff worked with EPA and LRAPA staff

Public comment — Starts Dec. 16, 2013 Ends Jan. 27, 2014

EQC meeting — March 2014

The rulemaking public notice packet is a major external deliverable in DEQ's rulemaking process. On behalf of the rule design team, I thank all DEQ contributors to the notice packet.

Emails about this rulemaking are part of the required rulemaking record. The rule writer on the **Cc...** line is the custodian of this email chain. This means, you are not responsible for maintaining this email or any responses that include the rule writer on the **To…** or **Cc...** line.

Thanks,

Andy

Andy Ginsburg
Air Quality Administrator
Oregon Department of Environmental Quality
(503) 229-5397 - Office
(503) 572-7195 - Mobile

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