From: GOLDSTEIN Meyer
To: SHEPHERD Pete
Cc: FELDON Leah; INAHARA Jill; LANGSTON Sue
Subject: relation between temporary rules and permitted sources
Date: Wednesday, June 01, 2016 2:04:16 PM

Director Shepherd,

Below is a discussion of the issue you raised about potential limitations in applying new rules to sources that have existing permits. As it applies to smaller sources, ORS 468A.025, which is the source of authority to adopt rules on air quality, specifically requires that rule-based restrictions be included in the permit.

From: INAHARA Jill
Sent: Wednesday, June 01, 2016 13:58
To: GOLDSTEIN Meyer
Subject: FW: Question on permitting

From: Garrahan Paul [mailto:paul.garrahan@state.or.us]
Sent: Thursday, April 07, 2016 8:54 AM
To: INAHARA Jill
Subject: RE: Question on permitting

ORS 468A.025(5). "Rules adopted by the commission under subsection (4) of this section shall be applied to a specific stationary source only through express incorporation as a permit condition in the permit for the source."

Although there may be an argument that the temporary rules are adopted under ORS 468A.025(3) only, and not also under subsection (4), the better interpretation is that they're being adopted under both subsections (3) and (4), and the lower legal risk approach is to treat them that way, and to implement them against sources by incorporating the requirements into a permit.

Paul Garrahan
Oregon Department of Justice
971.673.1943 (Tue, Thu, Fri) (Portland)
503.947.4593 (Mon, Wed) (Salem)
503.929.7553 (Mobile)

From: INAHARA Jill [mailto:jill.inahara@state.or.us]
Sent: Thursday, April 07, 2016 8:48 AM
To: GARRAHAN Paul
Subject: RE: Question on permitting

Can you provide a rule or statute citation please?

From: Garrahan Paul [mailto:paul.garrahan@state.or.us]

Sent: Thursday, April 07, 2016 8:34 AM
To: INAHARA Jill
Subject: RE: Question on permitting

Yes.

Paul Garrahan
Oregon Department of Justice
971.673.1943 (Tue, Thu, Fri) (Portland)
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503.929.7553 (Mobile)

From: INAHARA Jill [mailto:jill.inahara@state.or.us]
Sent: Thursday, April 07, 2016 8:25 AM
To: GARRAHAN Paul
Subject: Question on permitting

Hi Paul,

Hope you have a great spring break!

I can't remember where we ended up on the question of whether Bullseye's permit needs to be changed before we can enforce the temporary rules? I'm thinking yes but not positive.

Thank you,
Jill
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