

Change in Facility Operation

Sept. 27, 2019

Environmental Quality Commission Meeting

Item D

Madras, Oregon

Introductions

Panelists

Mark Bailey, Eastern Region Air Quality Manager

Ranei Nomura, Western Region Water Quality Manager

Audrey O'Brien, Northwest Region Land Quality Manager

Kieran O'Donnell, OCE Manager

Steve Dietrich, Northwest Region Air Quality Manager (by phone)

Scott Smith, Emergency Response Planner (by phone)

Question Presented

What must a facility do before it changes its operation?

Summary Answer

- Media specific considerations (Air, Land, and Water):
 - Many changes in operation require **notification** to DEQ
 - Some changes may result in the need to **obtain a permit or a permit modification**.
- General considerations:
 - **Land Use** (LUCS and Deed Restriction)
 - Many permitting actions require **public engagement**
 - **Non-compliance**

Air Quality

- **Notification:** Source must notify DEQ with a Notice of Intent to Construct (NC) for the following changes in operation:
 - Any physical change (new equipment)
 - Change in operation that will cause an increase in any regulated pollutant
 - Construction or modification of an air pollution control device
- **Example:** Installing a new boiler

Air Quality

- **DEQ Review and Response**
 - NC gives DEQ opportunity to require a permitting action (Issuance or Modification)
 - Four categories of NC (Type I through Type IV)
 - Generally, Type I and II do not require permitting action, whereas Type III and IV do require a permitting action
 - Source must submit to DEQ a notice of construction completion
- **Example:** Installation of boiler that increases emissions over a plant site emission limit (PSEL) will require a permitting action

Land Quality

- **Notification:** A permitted disposal site must submit a permit modification application to DEQ for “any change in the nature of the activities or operation from those of the last application including modification or expansion of the disposal site or a change in in the method or type of disposal.”
- **Example:** Compost facility permitted to accept Type I and Type II feedstocks, changes its operation to accept Type III feedstocks.

Land Quality

- **DEQ Solid Waste**

- Determine whether the modification request is administrative (No PN) or substantive – permit modification that requires review, changes to permit and public notice

- **Hazardous Waste:**

- Change in generator status does not require public notice. Increases in HW generation trigger additional management, labeling and disposal requirements.
- Changes at HW permitted facilities may be administrative or substantive and require review, permit modifications and public notice.

Water Quality

- **Notification:**

- Notification required by water quality permit
 - No generally applicable notification requirement in rule
 - Requirement to obtain DEQ approval for construction, installation, or modification of a disposal system, treatment works, sewerage system or common sewer
- Planned physical alterations or additions to the permitted facility that:
 - Change the nature or quantity of pollutants discharged
 - Significantly change sludge use or disposal practices

Water Quality

- **Response:**
 - DEQ responds to notifications on a case by case basis as required by rule
 - Permit modification required if:
 - New pollutants proposed in discharge
 - Increase in pollutants above currently permitted levels
 - Significant change in outfall location to receiving stream
 - Change to operation is significant enough to affect prior approval of land use from local government
- **Example:** Permittee proposes to add new equipment to its wastewater treatment process to dry biosolids (treated sewage sludge).

General Considerations

Land Use

- Nearly all permit issuances requires a LUCS
- Permit modifications and renewals require a LUCS if:
 - Use of additional property or a physical expansion on the existing property is proposed.
 - Significant increase in discharge to state waters or into the ground.
 - Relocation of an outfall outside of the source property.
 - For a major modification of an air contaminant discharge permit which means any physical change or change of operation of a source that results in a net significant emission rate increase.
- The cleanup program may initiate a deed restriction to limit land use in order to protect human health and the environment.

General Considerations

Public Process

- Public engagement varies by type of permitting action.
- Example:
 - Transfer of permit to new owner – no public process.
 - Controversial permit modification proposing a new pollutant in discharge – public notice, public comment, and public hearing

Non-compliance

- A failure to comply with any notification or permitting requirement may result in a formal enforcement action (FEA)
- The FEA may assess civil penalties and require specific compliance actions.

Thank you
Questions?