

Memo

To: Technical Workgroup
From: DEQ and OHA
Date: June 14, 2016
Subject: Other States Program Reviews

Introduction

The Cleaner Air Oregon rulemaking is a partnership between Oregon Health Authority and Oregon Department of Environmental Quality to develop a new regulatory system for managing air toxics emissions from industrial sources. The new rules will be based on the potential risk to human health so DEQ can carry out its mission of cleaner air and a healthier Oregon. In developing this new regulatory approach, the two agencies will begin looking at individual sources of industrial emissions across the state in relation to public health benchmarks.

DEQ and OHA have evaluated other state air toxics permitting programs and narrowed the field to six programs for further assessment: Louisville, Kentucky; New Jersey; New York; Rhode Island; South Coast Air Quality Management District (California); and Washington. These programs represent a range of diverse approaches to air toxics permitting programs, and were assessed comprehensively.

Key elements of these air toxics programs will be summarized and presented to the Technical Workgroup and the resulting policy issues will be discussed at Policy Forums around the state and with the Advisory Committee. After receiving input on the different aspects of a risk-based air toxics permitting program from the Technical Workgroup, the Policy Forums, and the Advisory Committee, DEQ/OHA will draft proposed rules and all interested parties will have a chance to comment on the proposed rules during the public notice period in 2017.

States Included in Comprehensive Review

Program	Reasons for Comprehensive Air Toxics Program Review
Louisville, Kentucky	Louisville’s program was included because the public has shown interest in the program, and because Louisville is a local air toxics permitting program.
New Jersey	The National Association of Clean Air Agencies (NACAA) recommended review of the New Jersey program for being progressive with knowledgeable and active members of their Air Toxics Committee.
New York	The National Association of Clean Air Agencies (NACAA) recommended review of the New York program for being progressive with knowledgeable and active members of their Air Toxics Committee.
Rhode Island	Rhode Island’s program was recommended by Tom Gentile of New York because of recent, progressive updates to their program.
South Coast Air Quality Management District (CA)	California’s air toxics program was chosen because it has a reputation for being a leader in the field.

Program	Reasons for Comprehensive Air Toxics Program Review
Washington	Washington's air toxics program was chosen because the state borders Oregon and its program is often compared to DEQ's.

States with Summary Review Approach

In addition to the six states that were addressed comprehensively, DEQ reviewed and assessed every state program. The attached spreadsheet outlines the elements and considerations evaluated for each state program.

All remaining state air permitting programs were assessed to determine if there were any additional specific programs or unique program elements that warrant further consideration beyond the six state programs DEQ selected for comprehensive review. The following approach was followed for these state programs:

Step	Process
Step 1	We researched each state program to determine if there was a formal air toxics program. This included reviewing state air program websites, air permitting websites, and air toxics program websites if available.
Step 2	If there was a formal air toxics program, we determined if the program extended beyond implementation of the federal National Emission Standards for Hazardous Air Pollutants (NESHAP) Program. We outlined those program elements.
Step 3	We evaluated and identified programs and program elements in comparison to the six air toxics permitting programs chosen for a comprehensive review. We compared the programs and program elements to see if there were any unique aspects that were not included in the range of approaches taken by the six programs evaluated comprehensively. We determined if the programs were similar, modeled after, or unique relative to the six programs under consideration. If there were no unique aspects, we did no further research.
Step 4	We identified three states (Michigan, Connecticut, and Wisconsin) that had programs that appeared to be well established and may have elements that we might not have considered in the six states programs under comprehensive review. We completed a more thorough review of these programs along with a formal interview with a representative of the Michigan program.
Step 5	We concluded that there were not any unique elements in these three programs that we had not already considered in the six state programs under comprehensive review.