

Summary of Public Comment and Agency Response

Title of Rulemaking: Conforming Oregon Air Quality Rules to Federal Clean Air Act Requirements

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Comment period The public comment period opened April 7, 2008 and closed at 5:00 p.m. May 23, 2008. DEQ held a public hearing on May 19, 2008, 6:30 p.m. at the DEQ Headquarters Building, EQC-A. No one attended the hearing. The only comments received were from EPA Region 10. They were provided in a letter dated May 12, 2008.

Organization of comments and responses Summaries of individual comments and the DEQ’s responses are provided below. US EPA Region 10 provided the only comments on this rulemaking, Comments 1-4.

Summary of Comments and Agency Responses	
Comment 1	US EPA Region 10 General: We are aware that ORS 468A.790 requires ODEQ and ODA to enter into a Memorandum of Understanding (MOU) that addresses the administration and enforcement of air quality laws that apply to agricultural operations and equipment. Please be advised that transfer of any of ODEQ's authority to ODA under any EPA approved Clean Air Act program would be considered a program revision, and must be submitted to EPA for review and approval before any of the permits issued or actions taken by ODA under the MOU will be considered permits or actions under Oregon's EPA-approved Clean Air Act programs. See, e.g., 70.4(i)(2)(v).
Response	Current plans are for DEQ to maintain authority for the Clean Air Act program and to jointly issue any permits issued to agricultural operations with ODA under the MOU. If any transfer of authority occurs in the future, DEQ will submit the change to EPA for approval.
Comment 2	US EPA Region 10 General: We think it is important that ODEQ adds a definition of agricultural operations so that it is clear that for federal Clean Air Act permitting purposes, agricultural operations do not include the use of fuel burning equipment in post-harvest activities.
Response	ORS 468A.020 and OAR 340-200-0030 describe “agricultural operations” that are exempt from Oregon’s air pollution laws, and these descriptions do not include fuel burning equipment used in post-harvest activities. These rule amendments do not exempt post-harvest fuel burning equipment used in connection with agricultural crop or animal harvesting (such as boilers used for the drying or processing of an agricultural commodity). Depending on the type and size of the facility this equipment is already regulated under OAR Division 216 or 218.

Agenda Item I, Rule Adoption: Conforming Oregon Air Quality Rules to Federal Clean Air Act Requirements
 August 21-22, 2008 EQC Meeting
 Attachment B

Comment 3	US EPA Region 10 OAR 340-210-0205(2): OAR 340-210-0205(2)(a) must be clear that only the <u>activity or equipment</u> that is exempt under 340-200-030, is exempt from 340-210-0200 through 340-210-0250, not the entire <u>source</u> .
Response	DEQ agrees and proposes the following change to OAR 340-210-0205: 340-210-0205 (2) OAR 340-210-0200 through 340-210-0250 do not apply to the following stationary sources: (a) Those sources conducting certain activities <u>Agricultural operations or equipment</u> that is exempted by OAR 340-200-030.
Comment 4	US EPA Region 10 OAR 340-210-0205(2): except for paragraph (d), this section seems duplicative of the exceptions listed in 340-200-030. We recommend that 340-210-0205(2) be either removed or revised to use the same language as 340-200-030, including the “necessary to implement the federal Clean Air Act” language.
Response	DEQ does not agree that OAR 340-210-0205(2) is duplicative with OAR 340-200-0030. Paragraphs (b), (c) and (d) describe equipment and activities in addition to those listed in OAR 340-200-0030 that are exempt from construction approval. However, DEQ agrees that the cross reference to OAR 340-200-0030 should be clarified consistent with comment 3: (2) OAR 340-210-0200 through 340-210-0250 do not apply to the following stationary sources: (a) Those sources conducting certain activities <u>Agricultural operations or equipment</u> that is exempted by OAR 340-200-030;