

DEPARTMENT OF ENVIRONMENTAL QUALITY
Chapter 340
Proposed Rulemaking
STATEMENT OF NEED AND FISCAL AND ECONOMIC IMPACT

Authorizing the Environmental Quality Commission to implement Clean Air Act requirements for agriculture in Oregon

This form accompanies a Notice of Proposed Rulemaking

Title of Proposed Rulemaking	Conforming Oregon Air Quality Rules to Federal Clean Air Act Requirements
Statutory Authority or other Legal Authority	ORS 468.020 and ORS 468A.020
Statutes Implemented	ORS 468.020 and ORS 468A.020
Need for the Rule(s)	The 2007 Legislature passed SB235 amending ORS 468A.020, 468A.550 and 561.400. This rulemaking is needed to align DEQ rules to ORS 468A.020.
Documents Relied Upon for Rulemaking	<ul style="list-style-type: none"> • Oregon Statutes (ORS 468A.020 and 468A.550) • Federal Clean Air Act (CAA) Amendments of 1990 • Senate Bill 235 (2007) • National Air Emissions Monitoring Study (NAEMS) <p>Copies of these documents may be reviewed at the Department of Environmental Quality's office at 811 SW 6th Avenue, Portland, Oregon 97204. Please contact Jeffrey Stocum at 503-229-5506 or stocum.jeffrey@deg.state.or.us.</p>
Requests for Other Options	Pursuant to ORS 183.335(2)(b)(G), DEQ requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.
Fiscal and Economic Impact, Statement of Cost Compliance	
Overview	This rulemaking is strictly designed to update Oregon rules to make them consistent with Oregon Revised Statutes (ORS) and the federal Clean Air Act (CAA), and DEQ does not anticipate that this rulemaking will have a direct economic or fiscal impact on any Oregon entity. But as a result of revisions made to ORS 468A.020 during the 2007 legislative session, it is possible that agricultural sources may be subject to the permitting requirements of the CAA in the future if their emissions are above federal permitting thresholds.
Impacts to General Public	DEQ does not anticipate any direct fiscal or economic impacts to the public by these proposed rules. However, if agricultural sources are required to apply for and obtain a federal operating permit in the future because of the revisions to ORS 468A.020, indirect fiscal or economic impacts to the public may occur through increased cost of agricultural products (dairy products, chickens, eggs, and meat products).
Impacts to Small Business (50 or fewer employees – ORS183.310(10))	The level of emissions, not the size of the business, triggers permitting requirements. Therefore, it is possible that small businesses with high emissions could be subject to federal permitting requirements because of the revisions to ORS 468A.020. Certain major new or modified sources are subject to the New Source Review/Prevention of Significant Deterioration (NSR/PSD) requirements and must obtain an Air Contaminant Discharge Permit (ACDP). Other major sources must obtain a federal Title V operating permit (Title V).

Cost of Compliance on Small Business (50 or fewer employees – ORS183.310(10))	a) Estimated number of small businesses subject to the proposed rule	<p>Currently, there are approximately 600 CAFO facilities permitted by the Oregon Department of Agriculture (ODA) for water quality protection purposes in Oregon, 98% of which are small businesses. According to ODA, the total number fluctuates year to year by small amounts.</p> <p>It is the responsibility of the owner or operator of a source to determine if NSR/PSD or Title V requirements apply based on the potential to emit certain pollutants, the nature of the emissions, anticipated changes in emission levels and other factors. Therefore, it is not possible for DEQ to accurately determine the number of these small businesses that could be required to obtain a permit because of the revisions to ORS 468A.020.</p>
	b) Types of businesses and industries with small businesses subject to the proposed rule	These rule updates may eventually affect small businesses involved in the agricultural operations sector, particularly the owner/operators of large confined animal feeding operations (CAFOs).
	c) Projected reporting, recordkeeping and other administrative activities required by small businesses for compliance with the proposed rule, including costs of professional services	DEQ does not anticipate any direct reporting, record keeping or other administrative activities required by this rule. However, if agricultural source types are required to obtain a federally required permit because of the revisions to ORS 468A.020, then facilities will need to comply with existing testing, monitoring, recordkeeping and reporting requirements under Divisions 216 (ACDP), 218 (Title V) or 224 (major New Source Review).
	d) The equipment, supplies, labor, and increased administration required by small businesses for compliance with the proposed rule	DEQ does not anticipate that this rule will directly require additional equipment, supplies, labor or increased administration. However, if an agricultural source type is required to obtain a permit under the CAA due to the revisions to ORS 468A.020, then it may be necessary to purchase a personal computer capable of maintaining electronic records and supporting emissions calculation models. It is estimated that hardware costing approximately \$2,000 would be adequate for the necessary tasks. Software programs necessary to perform emission estimation calculations are available for no cost from the EPA. Major new or modified sources subject to the NSR/PSD program or to a case-by-case MACT determination may be subject to significant costs for emission control equipment and ambient modeling demonstrations
	e) A description of the manner in which DEQ involved small businesses in the development of this rulemaking	Stakeholders participated in the design of SB 235 during four meetings in 2006. They also provided input considered for this rulemaking during the 2007 legislative session.
Impacts to Large Business (all businesses that are not “small businesses” under ORS183.310(10))	The level of emissions, not the size of the business, triggers permitting requirements. Therefore, it is possible that CAFOs that are large businesses with high emissions could be subject to federal permitting requirements because of the revisions to ORS 468A.020. Impacts to these businesses would be the same as those described for small businesses.	
Local Government	DEQ does not anticipate any direct fiscal or economic impacts to local government by these proposed rules. However, if agricultural sources are required to apply for and obtain a federal operating permit in the future because of the revisions to ORS 468A.020, indirect fiscal or economic impacts to local governments that purchase agricultural products (dairy products, chickens, eggs, and meat products) may be incurred.	
State Agencies Other Than DEQ	This rule does not directly impact other agencies. However, SB 235 (2007) requires the Environmental Quality Commission to enter into a Memorandum of Understanding (MOU) with the Department of Agriculture (ODA) for the establishment of policies and procedures	

	governing the administration of air quality laws that apply to agricultural operations and equipment. This MOU will consider the desirability of having the ODA serve as the lead agency responsible for the administration of these policies. The development of this MOU will have a minor fiscal and economic impact on ODA. However, if any agricultural sources become subject to permitting, ODA may incur a significant fiscal and economic impact to issue permits and conduct inspections. Funding for this work would be provided from permit fees as specified in the MOU.
DEQ	Development of the MOU with ODA will have a minor fiscal and economic impact on DEQ. However, if any agricultural sources become subject to permitting, DEQ may incur a significant fiscal and economic impact to issue permits and conduct compliance assurance. Funding for this work would be provided from permit fees.
Assumptions	It is assumed that the nationwide analysis of CAFO emissions being conducted for the EPA will lead to guidance that can assist facilities, the DEQ and the ODA in accurately estimating the emissions released by agricultural operations. This guidance will help determine how many sources in Oregon will need to be permitted, if any. That determination will affect the size and the complexity of the program needed to manage and implement the federal CAA as it applies to Oregon agricultural sources.
Housing Costs	DEQ has determined that this proposed rulemaking will have no effect on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single family dwelling on that parcel.
Administrative Rule Advisory Committee	This rulemaking is strictly designed to update Oregon rules to make them consistent with the state statutes and the CAA. No advisory committee was involved in this rule amendment.

Prepared by

Printed name

Date

Approved by DEQ Budget Office

Printed name

Date