

Proposed Rulemaking Announcement

Conforming Oregon Air Quality Rules to Federal Clean Air Act Requirements

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

Background

The federal Clean Air Act (CAA) does not provide an exemption for agricultural operations while prior to 2007 Oregon's state law allowed for such exemptions. Since the beginning of Oregon's air quality program in the 1960s, state law has exempted from regulation all agricultural operations except field burning in the Willamette Valley. As Oregon's operations grow in complexity, some of the largest may become subject to the requirements of the CAA.

In the fall of 2005, several environmental groups petitioned the U.S. Environmental Protection Agency (EPA) to revoke its approval of Oregon's air quality permitting program and the State Implementation Plan (SIP) because of the agricultural exemption.

During 2006, representatives from the affected agricultural industries and environmental stakeholders met four times to draft Senate Bill 235 for the Governor to submit to the 2007 Legislature on behalf of the Oregon Department of Agriculture (ODA) and the Department of Environmental Quality (DEQ). The bill gave both agencies authority to implement federal air quality standards for agriculture operations in Oregon.

The 2007 Legislature passed SB235 amending ORS 468A.020, 468A.550 and 561.400 and aligning state and federal law.

Why are the rule changes needed?

This rulemaking is needed to align DEQ rules (OAR) to ORS 468A.020.

What is the objective of this rulemaking?

DEQ is proposing to align Oregon Administrative Rules (OARs) with ORS 468A.020 to allow regulation of agriculture to the extent necessary to comply with the federal CAA.

Once adopted by the Environmental Quality Commission, DEQ will submit the revised rules

to the US EPA for approval as a revision of the State Clean Air Act Implementation Plan. This will resolve the petition received by EPA in 2005.

Who may be affected?

This rulemaking may affect large agricultural operations, particularly the owner/operators of large confined animal feeding operations (CAFOs). Agricultural operations with emissions above federal thresholds may be subject to federal permitting rules and need to obtain a federal air operating permit.

Other than the potential requirement for permitting, these rule changes will have minimal impact on agricultural operations in Oregon because no new requirements are directly imposed by this rulemaking. ORS 468A.020 authorizes the Environmental Quality Commission (EQC) to limit emissions from agricultural sources if needed to meet federal CAA requirements, such as National Ambient Air Quality Standards (NAAQS), federal air toxic requirements, or regional haze issues. However, no such requirements are included in this rulemaking and any such requirements would need to be adopted by the EQC in future rulemakings.

How was this proposal developed?

In preparation for the 2007 Legislative session, representatives from Oregon's agricultural industry and environmental groups met to craft a legislative proposal to address the petition and authorize the EQC to regulate emissions from agriculture to the extent needed to meet federal CAA requirements. The 2007 Oregon legislature subsequently revised and adopted SB 235

This rulemaking is strictly designed to update Oregon rules to make them consistent with the revised state statutes and the federal CAA.

Copies of the documents relied upon in the development of this rulemaking proposal can be



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Quality

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The Department and the EQC have the statutory authority to address this issue under ORS 468.020. These rules implement ORS 468A.020.

Last Updated: 04/04/2008
By: Jeffrey Stocum

reviewed at DEQ's office at 811 S.W. 6th Avenue, Portland, Oregon. Please contact Jeffrey Stocum for times when the documents are available for review.

The following documents are available online:

- [Notice of Hearing](#)
- Proposed Rule changes
 - [Division 200-0030](#)
 - [Division 210-0205](#)
 - [Division 264-0040](#)
 - [Division 200-0040](#)
- [Statement of Need and Fiscal Impact](#)
- [Land Use Evaluation Statement](#)
- [Relationship to Federal Requirements](#)

How to Comment

Comments on the proposed rulemaking may be submitted in writing via mail, fax or e-mail at anytime prior to the comment deadline of **May 23, 2008**. Written and oral comments can be submitted during any of the public hearings specified below. It is not necessary to attend a hearing in order to comment. Written comments received prior to the deadline are treated equally with oral comments.

Written comments may be mailed to Jeffrey Stocum, Oregon DEQ Air Quality, 811 SW 6th Ave, Portland, OR 97210. Call 503-229-5506, or toll-free in Oregon at 1-800-452-4011.

Comments may be faxed to Jeffrey Stocum at 503-229-5675 or e-mailed to: Stocum.jeffrey@deq.state.or.us (E-mail comments will be acknowledged immediately. If there is a delay between servers, e-mails may not be received before the deadline.)

Public hearings

A public hearing will be held at the DEQ Headquarters Office in May. The hearing will begin with a brief overview of the proposed rule changes, followed by the opportunity for members of the public to provide oral and written comment. All comments will be recorded and reviewed by DEQ.

- **Portland**, 6:30 pm, May 19, 2008
DEQ Headquarters Building,
10th Floor Room EQC-A,
811 SW Sixth Ave., Portland,
Presiding Officer: DEQ staff

Comment deadline is May 23, 2008

All comments are due to DEQ by 5 p.m., May 23, 2008. DEQ cannot consider comments from any party received after the deadline for public comment.

How will the rules be adopted?

DEQ will prepare a response to all comments received during the public hearing and comment period and may modify the proposed rules. DEQ plans to recommend that the Oregon Environmental Quality Commission (EQC) adopt the rules at the August 21, 2008 EQC meeting. DEQ will notify persons of the time and place for final EQC action if they submit comments during the hearing or comment period or request to be placed on DEQ's mailing list for this rulemaking.

Alternative formats/accommodations

Please notify DEQ of any special physical or language accommodations needed for the hearings as far in advance as possible. Alternative formats (Braille, large type) of this document can be made available. Contact DEQ's Office of Communications & Outreach, Portland, at 503-229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696.

