



# Air Quality Permit Updates 2022

## Draft Proposed Rule Changes – Crosswalk of Technical Changes

Division	Rule	Suggested change	Reason/Issues	SIP
<b>200</b>		<b>General Air Pollution Procedures and Definitions</b>		
200	0020(73)	Remove subsection (b) from the definition of “Greenhouse gases” <del>(b) The definition of greenhouse gases in subsection (a) of this section does not include, for purposes of division 216, 218, and 224, carbon dioxide emissions from the combustion or decomposition of biomass except to the extent required by federal law.</del>	Correction. On July 24, 2015, the United States Court of Appeals for the District of Columbia Circuit vacated the federal biomass deferral rule.	SIP
200	0020(110)	Change to: (110) "Particulate matter": <u>(a) Except as provided in subsection (b) of this section,</u> means all finely divided solid <del>and</del> liquid material, other than uncombined water, emitted to the ambient air as measured by the test method specified in each applicable rule, or where not specified by rule, in the permit. <u>(b) As used in OAR 340 division 208, Visible Emissions and Nuisance Requirements, means all finely divided solid material, including dust, and all finely divided liquid material, other than uncombined water, that is emitted to the ambient air.</u>	Correction. In a contested case hearing decision against a source for violating OAR 340-208-0310(1) for “failing to take reasonable precautions to prevent particulate matter from becoming airborne,” the Administrative Law Judge ruled that DEQ failed to meet its burden of proof for the violation, based on the current definition of particulate matter in division 200, which requires measurement. Since DEQ did not “measure” the amount of dust generated from the site, DEQ could not prove that the dust was in fact particulate matter and that the company was required to be taking reasonable precautions to prevent. It is very difficult to “measure” fugitive emissions and nuisances.	SIP
<b>208</b>		<b>Visible Emissions and Nuisance Requirements</b>		
208	0110(1)	Change to: <b>340-208-0110</b> <b>Visible Air Contaminant Limitations</b> (1) The emissions standards in this rule do not apply to: <u>(a) Fugitive emissions from a source or part of a source; or</u> <u>(b) Recovery furnaces regulated under OAR 340 division 234.</u>	Clarification. Recovery furnaces have a 35% opacity limit in division 234.	SIP
<b>209</b>		<b>Public Participation</b>		

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209	0080(7)	<p>Change to:</p> <p>(5) Issuance of permit: DEQ will promptly notify the applicant in writing of the final action as provided in OAR 340-011-0525 and will include a copy of the permit. If the permit conditions are different from those contained in the proposed permit, the notification will identify the affected conditions and include the reasons for the changes. <u>The permit is effective on the date that it is signed, except as provided in section (7).</u></p> <p>(6) Denial of a permit: DEQ will promptly notify the applicant in writing of the final action as provided in OAR 340-011-0525. If DEQ denies a permit application, the notification will include the reasons for the denial. <u>The denial of a permit is effective on the date the notification is signed, except as provided in section (7).</u></p> <p>(7) DEQ's decision under sections (5) and (6) is effective <u>on the date included in those sections 20 days from the date of service of the notice</u> unless, <del>within that time,</del> DEQ receives a request for a hearing from the applicant <u>within 20 days from the effective date</u>. The request for a hearing must be in writing and state the grounds for the request. The hearing will be conducted as a contested case hearing in accordance with ORS 183.413 through 183.470 and OAR 340 division 11.</p>	<p>Clarification. There has been some confusion on the effective date of permit issuance or denial. The proposed changes are in alignment with how DEQ has been interpreting and implementing the rules.</p>	SIP
<b>210</b>		<b>Stationary Source Notification Requirements</b>		
210	0225(1)	<p>Change to:</p> <p>(1) Type 1 changes include construction or modification of <del>sources</del> <u>device, activity or process, or any combination of devices, activities or processes</u> or air pollution control devices where such a change meets the criteria in subsections (a) through (f):</p> <p><u>(a) Would not increase potential emissions from any new, modified, or replaced device, activity or process, or any combination of devices, activities or processes at the source by more than the de minimis levels;</u></p> <p><del>(b)</del> <u>Would not increase potential</u> emissions from the source above the PSEL by more than the de minimis emission level <del>defined in OAR 340-200-0020</del> for sources required to have a permit;</p> <p><del>(c)</del> <u>Would not increase potential</u> emissions from the source above the netting basis by more than or equal to the SER;</p> <p><del>(e) Would not increase emissions from any new, modified, or replaced device, activity or process, or any combination of devices, activities or processes at the source by more than the de minimis levels defined in OAR 340-200-0020;</del></p>	<p>Clarification. NCs apply to a device, activity or process, or any combination of devices, activities or processes, not to the whole “source.”</p> <p>Emissions are “potential” and not “actual.”</p> <p>The order of the criteria is changed to look at device, activity or process before the source.</p> <p>SIC or NAICS code changes are not allowed under a Type 1 of Type 2 NC.</p>	SIP
210	0225(2)	<p>Change to:</p> <p>(2) Type 2 changes include construction or modification of <del>sources</del> <u>a device, activity or process, or any combination of devices, activities</u></p>	<p>Clarification. NCs apply to a device, activity or process, or any combination of devices, activities or processes, not to the whole “source.”</p>	SIP

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		<p><u>or processes</u> or air pollution control devices where such a change meets the criteria in subsections (a) through (f):</p> <p><del>(ae) Would not increase potential emissions from any new, modified, or replaced device, activity or process, or any combination of devices, activities or processes at the source by more than or equal to the SER;</del></p> <p><del>(ba) Would not increase potential emissions from the source above the PSEL by more than the de minimis emission level defined in OAR 340-200-0020 for sources required to have a permit;</del></p> <p><del>(cb) Would not increase potential emissions from the source above the netting basis by more than or equal to the SER;</del></p> <p><del>(c) Would not increase emissions from any new, modified, or replaced device, activity or process, or any combination of devices, activities or processes at the source by more than or equal to the SER;</del></p> <p>(d) Would not be used to establish a federally enforceable limit on the potential to emit;</p> <p>(e) Would not require a TACT determination under OAR 340-226-0130 or a MACT determination under OAR 340-244-0200; and</p> <p>(f) Is not required to obtain a permit <u>or permit modification</u> under OAR 340 division 216.</p>	<p>Emissions are “potential” and not “actual.”</p> <p>The order of the criteria is changed to look at device, activity or process before the source.</p> <p>A permit modification may be needed if the source is already permitted.</p>	
210	0225(3)	<p>Change to:</p> <p>(3) Type 3 changes include construction or modification of <del>sources a device, activity or process, or any combination of devices, activities or processes</del> or air pollution control devices where such a change does not qualify as a Type 4 change under section (4) and:</p> <p><del>(a) Would increase potential emissions from any new, modified, or replaced device, activity or process, or any combination of devices, activities or processes at the source by more than the SER but are not subject to OAR 340-222-0041(4);</del></p> <p><del>(ba) Would increase potential emissions from the source above the PSEL by more than the de minimis emission level defined in OAR 340-200-0020 before applying unassigned emissions or emissions reduction credits available to the source but less than the SER after applying unassigned emissions or emissions reduction credits available to the source for sources required to have a permit;</del></p> <p><del>(b) Would increase emissions from any new, modified, or replaced device, activity or process, or any combination of devices, activities or processes at the source by more than the SER but are not subject to OAR 340-222-0041(4);</del></p> <p>(c) Would be used to establish a federally enforceable limit on the potential to emit; <del>or</del></p> <p>(d) Would require a TACT determination under OAR 340-226-0130 or a MACT determination under 340-244-0200.</p>	<p>Clarification. NCs apply to a device, activity or process, or any combination of devices, activities or processes, not to the whole “source.”</p> <p>Emissions are “potential” and not “actual.”</p> <p>The order of the criteria is changed to look at device, activity or process before the source.</p>	SIP

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210	0225(4)	<p>Change to:</p> <p>(4) Type 4 changes include construction or modification of sources or air pollution control devices where such a change or changes would increase <del>emissions from the source above</del> the PSEL, <del>after applying unassigned emissions or emissions reduction credits available to the source, or</del> <u>above the</u> netting basis of the source by more than the SER.</p>	<p>Clarification. Emissions are “potential” and not “actual.”</p> <p>Simplification. The netting basis includes unassigned emissions and emission reduction credits so this language is redundant.</p>	SIP
210	0230(1)	<p>Change to:</p> <p>(1) Any person proposing a Type 1 or 2 change must provide notice and applicable fees in OAR 340-216-8020 to DEQ before constructing or modifying a stationary source or air pollution control device. The notice must be in writing on a <u>paper or electronic</u> form supplied by DEQ and include the following information as applicable:</p> <p>(a) Name, address, <u>tax lot</u>, and nature of business;</p> <p>(b) Name of local person responsible for compliance with these rules;</p> <p>(c) Name of person authorized to receive requests for data and information;</p> <p>(d) The type of construction or modification as defined in OAR 340-210-0220;</p> <p>(e) A description of the constructed or modified <del>source device,</del> <u>activity or process, or any combination of devices, activities or processes;</u></p> <p>(f) A description of the production processes and a related flow chart for the constructed or modified <del>source device, activity or process, or</del> <u>any combination of devices, activities or processes;</u></p> <p>(g) A plot plan showing the location and height of the constructed or modified <del>source device, activity or process, or any combination of</del> <u>devices, activities or processes.</u> The plot plan must also indicate the nearest residential or commercial property;</p> <p>(h) Type and quantity of fuels used;</p> <p>(i) The change in the amount, nature and duration of regulated pollutant emissions;</p> <p>(j) Plans and specifications for air pollution control devices and facilities and their relationship to the production process, including estimated efficiency of air pollution control devices under present or anticipated operating conditions;</p> <p>(k) Any information on pollution prevention measures and cross-media impacts the owner or operator wants DEQ to consider in determining applicable control requirements and evaluating compliance methods;</p> <p>(l) A list of any requirements applicable to the new construction or modification;</p>	<p>Streamlining. Provide for electronic forms submittals.</p> <p>Clarification. Land use approval is usually given by tax lot.</p> <p>For federal lands, local planning jurisdictions do not have the authority to approve LUCS so a different option is provided.</p> <p>NCs apply to device, activity or process, or any combination of devices, activities or processes, not to the whole “source.”</p> <p>DEQ would not accept an application for an NC if an approved Land Use Compatibility Statement was not included for the location of the source.</p>	SIP

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		<p>(m) Where the operation or maintenance of air pollution control devices and emission reduction processes can be adjusted or varied from the highest reasonable efficiency and effectiveness, information necessary for DEQ to establish operational and maintenance requirements under OAR 340-226-0120(1) and (2); and</p> <p>(n) Amount and method of refuse disposal; and</p> <p>(o) <del>(A)</del> Land Use Compatibility Statement(s) signed by <del>the</del> a local <del>(city or county)</del> planning <del>or</del> jurisdiction(s), as applicable, either approving or disapproving construction or modification to the source <del>for the source's specific location if required by the local planning agency.</del> <u>Applications and construction notices that receive a disapproved LUCS will not be approved by DEQ.</u></p> <p><u>(B) If a LUCS is not required by the local planning jurisdiction, the owner or operator must review all statewide planning goals and submit such information to demonstrate the project complies with those goals.</u></p>		
210	0240(1)(b)	<p>Change to:</p> <p>(b) For Type 2 changes, the owner or operator may proceed with the construction or modification 60 calendar days after DEQ receives the notice and fees required in OAR 340-210-0230 or on the date that DEQ approves the proposed construction in writing, whichever is sooner, unless DEQ notifies the owner or operator in writing that:</p> <p><u>(A) †The proposed construction or modification is not a Type 2 change; or</u></p> <p><u>(B) Additional information is needed to approve the proposed construction or modification.</u></p> <p><u>(i) If DEQ determines that additional information is needed, DEQ will promptly ask the applicant for the needed information and provide the applicant with a written request to provide such information by a date certain; and</u></p> <p><u>(ii) If DEQ determines it is not able to approve the applicant's submittal, or if the applicant does not timely provide additional information or corrections requested by DEQ, then in addition to any other remedies available, DEQ will reject the application and return it to the applicant.</u></p>	Clarification. In some cases, DEQ does not have enough information to review the Type 2 application to see if it qualifies as a Type 2 NC before approving it.	SIP
210	0240(2)	<p>Add a new section (2):</p> <p><u>(2) All owners or operators must construct or modify their facility in accordance with the approved plans, specifications and any corrections or revisions thereto or other information, if any, previously submitted in the application required under OAR 340-210-0230.</u></p>	Clarification. OAR 340-210-0230(3) requires the owner of operator to notify DEQ of any corrections and revisions to the plans and specifications upon becoming aware of the changes. This rule clarifies that sources must construct or modify in accordance with those plans.	SIP
216		<b>Air Contaminant Discharge Permits</b>		

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216	0020(2)	Change to: (2) Sources in any one of the categories in OAR 340-216-8010 must obtain a permit. If a source meets the requirements of more than one of the source categories and the source is not eligible for a Basic ACDP or a General ACDP that has been authorized by DEQ, then the source must obtain a Simple or Standard ACDP. <a href="#">DEQ may determine that a source is ineligible for a Basic ACDP or a General ACDP based upon the considerations in OAR 340-216-0025(7).</a> Source categories are not listed in alphabetical order.	Correction and clarification. DEQ must have the ability to require a more complex permit for sources that meet the considerations.	SIP
216	0020(3)(a)	Add: <a href="#">(a) The permittee must construct their facility in accordance with the approved plans, specifications and any corrections or revisions thereto or other information, if any, previously submitted in the application required under OAR 340-216-0040.</a>	Clarification. OAR 340-210-0230(3) requires the owner of operator to notify DEQ of any corrections and revisions to the plans and specifications upon becoming aware of the changes. This rule clarifies that sources must construct or modify in accordance with those plans.	SIP
216	0020(8)	Add: <a href="#">(8) No person may violate the conditions of any Air Contaminant Discharge Permit issued under ORS 4684.040 (Permits; rules) or this division.</a>	Clarification. Permittees must comply with all conditions in their permit. Currently, there is no Air Quality statute or rule that requires permittee compliance with all permit conditions. The Water Quality Division has a statute (ORS 468B.025) that says permittees must comply with their permit. The Air Quality Division needs at least a rule outside of the permit to cite as legal authority (for the condition in the permit).	SIP
216	0040(1)(a)(L)	Add: <a href="#">(L) The most recent information reported through EPA's Toxics Release Inventory program at the time of application submittal, if the source is subject to the program;</a>	Streamlining. DEQ checks the TRI data against the toxic air contaminants reported under Cleaner Air Oregon to ensure consistency.	NOT SIP
216	0040(11)	Change to: (11) Within 15 days after receiving the application, DEQ will preliminarily review the application to determine the adequacy of the information submitted: (a) If DEQ determines that additional information is needed, DEQ will promptly ask the applicant for the needed information <a href="#">and provide the applicant with a written request to provide such information by a date certain.</a> <del>The application will not be considered complete for processing until the requested information is received. The application will be considered withdrawn if the applicant fails to submit the requested information within 90 days of the request;</del> (b) <a href="#">An applicant may request an extension of time from a deadline established in subsection (a) by providing DEQ with a written request 15 days prior to the submittal deadline. DEQ may grant an extension based on the following criteria:</a> <a href="#">(A) The applicant has demonstrated progress in completing the submittal; and</a>	Streamlining. In some cases, additional information is needed to process an application, and it can be provided within a very short time period. In other cases, more time may be required to gather the necessary information. Rule language allowing for 90 days to submit additional information can delay processing of an application. DEQ will give applicants a date certain to submit additional information, depending on the type of information needed. The applicant can request an extension for good cause.	SIP

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		<p><u>(B) A delay is necessary, for good cause shown by the applicant, related to obtaining more accurate or new data, performing additional analyses, or addressing changes in operations or other key parameters, any of which are likely to have a substantive impact on the outcomes of the submittal;</u></p> <p><del>(c) If, in the opinion of DEQ, additional measures are necessary to gather facts regarding the application, DEQ determines it is not able to approve the applicant's submittal, or if the applicant does not timely provide additional information or corrections requested by DEQ, then in addition to any other remedies available, DEQ will reject the application and return it to the applicant;</del></p> <p><del>(d) DEQ will notify the applicant that such measures will be instituted along with the timetable and procedures to be followed.</del></p> <p>The application will not be considered complete for processing until the <u>requested information is received; and</u><del>necessary additional fact-finding measures are completed.</del></p> <p><u>(e) When the information in the application is deemed adequate for processing, DEQ will so notify the applicant.</u></p>		
216	0040(12)	<p>Change to:</p> <p>(12) If at any time while processing the application, DEQ determines that additional information is needed, DEQ will promptly ask the applicant for the needed information <u>and follow the procedures in section (11).</u><del>The application will not be considered complete for processing until the requested information is received. The application will be considered withdrawn if the applicant fails to submit the requested information within 90 days of the request.</del></p>	Streamlining. In some cases, additional information is needed to process an application, and it can be provided within a very short time period. In other cases, more time may be required to gather the necessary information. Rule language allowing for 90 days to submit additional information can delay processing of an application. DEQ will give applicants a date certain to submit additional information, depending on the type of information needed.	SIP
216	8010 Table 1 Part B	<p>Change to:</p> <p>85 All <del>other</del> sources, both stationary and portable, <del>not listed herein</del> which would have <u>actual potential to emit</u>issions, if the source were to operate uncontrolled, of 5 or more tons per year of direct PM2.5 or PM10 if located in a PM2.5 or PM10 nonattainment or maintenance area, or 10 or more tons per year of any single criteria pollutant if located in any part of the state.<sup>4</sup></p>	Clarification and correction. DEQ interprets Category 85 using potential emissions not actual emissions, especially since new sources do not have actual emissions.	SIP
<b>218</b>		<b>Oregon Title V Operating Permits</b>		
218	0040(3)(c)	<p>Add:</p> <p><u>(M) The most recent information reported through EPA's Toxics Release Inventory program at the time of application submittal, if the source is subject to the program.</u></p>	Streamlining. DEQ checks the TRI data against the toxic air contaminants reported under Cleaner Air Oregon to ensure consistency.	NOT SIP
218	0240(1)	<p>Add:</p> <p><u>(1) No person may violate the conditions of any Oregon Title V Operating Permit issued under ORS 468A.310 (Federal operating permit program approval; rules; content of plan) and this division.</u></p>	Clarification. Permittees must comply with all conditions in their permit. Currently, there is no Air Quality statute or rule that requires permittee compliance with all permit conditions. The Water Quality Division has a statute (ORS 468B.025) that says permittees must comply with their permit. The Air Quality	NOT SIP

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			Division needs at least a rule outside of the permit to cite as legal authority (for the condition in the permit).	
<b>222</b>		<b>Stationary Source Plant Site Emission Limits</b>		
222	0041	Change to: (4) If an applicant wants an annual PSEL at a rate greater than the netting basis, the applicant must, consistent with OAR 340-222-0035: (a) Demonstrate that the requested increase over the netting basis is less than the SER; or (b) For increases equal to or greater than the SER over the netting basis, demonstrate that the applicable Major NSR or State NSR requirements in OAR 340 division 224 have been satisfied, except that: <u>(A) An increase in the PSEL for GHGs is subject to the requirements of NSR specified in 340-224-0010(1)(c) only if the criteria in 340-224-0010(1)(c) are met; and</u> <u>(B) An increase in the PSEL for particulate matter (PM) is not subject to the air quality analysis but is required for PM10 or PM2.5, if applicable.</u>	Clarification. There is no NAAQS or PSD increment for PM. BACT applies and impacts on AQRV's could be relevant for deposition of heavy metals, which would be related to total PM rather than just the PM10 or PM2.5 fractions.	SIP
<b>225</b>		<b>Air Quality Analysis Requirements</b>		
225	0030	Add: <u>(3) An air quality analysis for comparison to significant impact levels, PSD increments, and ambient air quality standards is not required for PM increases equal to or greater than the PM SER, but is required for PM10 or PM2.5, if applicable.</u>	Clarification. There is no NAAQS or PSD increment for PM. BACT applies for PM emissions and impacts on AQRV's could be relevant for deposition of heavy metals, which would be related to total PM rather than just the PM10 or PM2.5 fractions.	SIP
<b>226</b>		<b>General Emission Standards</b>		
226	0130	Change to: <del>For existing sources, the emission limit established will be typical of the emission level achieved by emissions units similar in type and size. For new and modified sources, the emission limit established will be typical of the emission level achieved by well controlled new or modified emissions units similar in type and size that were recently installed.</del> TACT determinations will be based on information known to DEQ while considering pollution prevention, impacts on other environmental media, energy impacts, capital and operating costs, cost effectiveness, and the age and remaining economic life of existing emission control devices. DEQ may consider emission control technologies typically applied to other types of emissions units where such technologies could be readily applied to the emissions unit. If an emission limitation is not feasible, a design, equipment, work practice, operational standard, or combination thereof, may be required.	Restructure. Move these first two sentences to sections (1) and (2) that talk about existing sources and new/modified sources.	SIP
226	0130(1)	Change to:	Restructuring (see above note) and clarification.	SIP

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		<p>(1) Existing Sources. <u>For existing sources, the emission limit established will be typical of the emission level achieved by emissions units similar in type and size.</u> An existing emissions unit must meet TACT for existing sources if:</p> <p>(a) The emissions unit is not already subject to emission standards for the regulated pollutant under OAR 340 divisions 224, 230, <a href="#">OAR 340-232-0010 through 340-232-02340</a>, OAR 340 divisions 234, 236, <del>or 238</del>, <a href="#">OAR 340-240-0110 through 340-240-0180</a>, <a href="#">OAR 340-240-320 through 340-240-0430</a>; <u>or OAR 340 divisions 244 or 245</u>;</p>	Divisions 244 and 245 for hazardous air pollutants and toxic air contaminants may require emission standards that would be considered TACT since these pollutants could also be criteria pollutants.	
226	0130(2)	<p>Change to:</p> <p>(2) New and Modified Sources. <u>For new and modified sources, the emission limit established will be typical of the emission level achieved by well controlled new or modified emissions units similar in type and size that were recently installed.</u> A new or modified emissions unit must meet TACT for new or modified sources if:</p> <p>(a) The new or modified emissions unit is not subject to <a href="#">a control technology requirement based on</a> Major NSR in OAR 340 division 224, a Type A State NSR action under OAR 340 division 224, an applicable Standard of Performance for New Stationary Sources in OAR 340 division 238, <a href="#">OAR 340-240-0110 through 340-240-0180</a>, <del>340-240-0310(1)</del>, <a href="#">OAR 340-240-320 through 340-240-0430</a>, or any other standard applicable only to new or modified sources in OAR 340 divisions 230, 234, 236, or 238, <a href="#">a National Emission Standard for Hazardous Air Pollutants in OAR division 244</a>, or <a href="#">TBACT or TLAER in OAR division 245</a> for the regulated pollutant emitted;</p>	<p>Restructuring (see above note) and clarification.</p> <p>Divisions 244 and 245 for hazardous air pollutants and toxic air contaminants may require emission standards that would be considered TACT since these pollutants could also be criteria pollutants.</p>	SIP
226	0130(3)	<p>Change to:</p> <p>(3) Before making a TACT determination, DEQ will notify the owner or operator of a source that it intends to make such a determination using information known to DEQ. The owner or operator of the source <del>may</del> <u>must</u> supply DEQ with additional information by a reasonable date set by DEQ.</p>	Correction.	SIP
<b>234</b>		<b>Emission Standards for Wood Products Industries</b>		
234	0210(2)(a)(C)	<p>Change to:</p> <p>(C) Thirty-five percent opacity for a period or periods aggregating more than 30 minutes in any 180 consecutive minutes or more than 60 minutes in any 24 consecutive hours (excluding periods when the facility is not operating). <a href="#">Recovery furnaces are exempt from the visible emission standards in OAR 340 division 208.</a></p>	Clarification. Statewide visible emission standards are not intended to apply to equipment that have industry specific limits.	SIP
234	0210(4)	<p>Change to:</p> <p>(4) Emissions from each kraft mill source, with the exception of the mill's emissions attributable to a recovery furnace <u>and fugitive emissions</u>, may not equal or exceed 20 percent opacity as a six minute average. <a href="#">Fugitive emissions must meet the requirements of</a></p>	Correction and clarification. When EQC changed the rules in 2015, fugitive emissions were exempted from opacity standards because it is very difficult to read opacity from fugitive emission sources. Instead DEQ required sources to abate fugitive escaping from an air contaminant source. See 340-208-0210. DEQ did not propose this clarification at that	SIP

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		<a href="#">OAR 340-208-0210. The kraft mill sources included in this rule are exempt from the visible emission rules in OAR 340 division 208.</a>	<p>time so this proposed clarification will provide consistency for fugitive sources.</p> <p>The kraft mill sources have their own opacity standards in division 234.</p>	

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