**DIVISION 208**

**VISIBLE EMISSIONS AND NUISANCE REQUIREMENTS**

**340-208-0010**

**Definitions**

The definitions in OAR 340-200-0020 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020, the definition in this rule applies to this division.

(1) "Abate" means to eliminate the nuisance or suspected nuisance by reducing or managing the emissions using reasonably available practices. The degree of abatement will depend on an evaluation of all of the circumstances of each case and does not necessarily mean completely eliminating the emissions.

(2) "Air Contaminant" means a dust, fume, gas, mist, odor, smoke, pollen, vapor, soot, carbon, acid or particulate matter, or any combination thereof.

(3) "Emission" means a release into the outdoor atmosphere of air contaminants.

(4) "Fuel Burning Equipment" means a boiler or process heater that burns a solid, liquid, or gaseous fuel, the principal purpose of which is to produce heat or power by indirect heat transfer.

(5) "Fugitive Emissions" means emissions of any air contaminant that escape to the atmosphere from any point or area not identifiable as a stack, vent, duct, or equivalent opening.

(6) "New source" means, for purposes of OAR 340-208-0110, any air contaminant source installed, constructed, or modified after June 1, 1970.

(7) "Nuisance" means a substantial and unreasonable interference with another's use and enjoyment of real property, or the substantial and unreasonable invasion of a right common to members of the general public.

(8) "Odor" means that property of an air contaminant that affects the sense of smell.

(9) "Special Control Area" means an area designated in OAR 340-204-0070.

(12) "Standard conditions" means a temperature of 68° Fahrenheit and a pressure of 14.7 pounds per square inch absolute.

(13) "Standard cubic foot" means the amount of gas that would occupy a volume of one cubic foot, if the gas were free of uncombined water at standard conditions. When applied to combustion flue gases from fuel, "standard cubic foot" also implies adjustment of gas volume to that which would result at a concentration of 12% carbon dioxide or 50% excess air.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 468 & 468A
Stats. Implemented: ORS 468.020 & 468A.025
Hist.: [DEQ 16, f. 6-12-70, ef. 7-11-70; DEQ 1-1984, f. & ef. 1-16-84; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 3-1996, f. & cert. ef. 1-29-96]; [DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 3-1996, f. & cert. ef. 1-29-96]; [DEQ 4-1978, f. & ef. 4-7-78; DEQ 9-1979, f. & ef. 5-3-79; DEQ 3-1980, f. & ef. 1-28-80; DEQ 14-1981, f. & ef. 5-6-81; DEQ 22-1989, f. & cert. ef. 9-26-89; DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 4-1995, f. & cert. ef. 2-17-95; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 3-1996, f. & cert. ef. 1-29-96]; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-021-0005, 340-021-0050, 340-030-0010; DEQ 2-2001, f. & cert. ef 2-5-01; DEQ 8-2007, f. & cert. ef. 11-8-07

**Visible Emissions**

**340-208-0100**

**Applicability**

OAR 340-208-0100 through 340-208-0110 apply in all areas of the state.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented:ORS 468A.025
Hist.: DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-021-0012

**340-208-0110**

**Visible Air Contaminant Limitations**

(1) Existing sources outside special control areas. No person may emit or allow to be emitted any air contaminant into the atmosphere from any existing air contaminant source located outside a special control area for a period or periods aggregating more than three minutes in any one hour which is equal to or greater than 40% opacity.

(2) New sources in all areas and existing sources within special control areas: No person may emit or allow to be emitted any air contaminant into the atmosphere from any new air contaminant source, or from any existing source within a special control area, for a period or periods aggregating more than three minutes in any one hour which is equal to or greater than 20% opacity.

(3) Exceptions to sections (1) and (2) of this rule:

(a) Where the presence of uncombined water is the only reason for failure of any source to meet the requirement of sections (1) and (2) of this rule, such sections shall not apply;

(b) Existing fuel burning equipment installed on or before June 1, 1970 that has not been modified since June 1, 1970 utilizing wood wastes and located within special control areas shall comply with the emission limitations of section (1) of this rule in lieu of section (2) of this rule.

(4) Opacity is determined in accordance with the procedures specified in the definition of "opacity".

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

Stat. Auth.: ORS 468 & 468A
Stats. Implemented: ORS 468.020 & 468A.025
Hist.: DEQ 16, f. 6-12-70, ef. 7-11-70; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 3-1996, f. & cert. ef. 1-29-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-021-0015; DEQ 2-2001, f. & cert. ef 2-5-01; DEQ 8-2007, f. & cert. ef. 11-8-07

**Fugitive Emission Requirements**

**340-208-0200**

**Applicability**

OAR 340-208-0200 through 340-208-0210 apply:

(1) Within Special Control Areas, designated in OAR 340-204-0070; and

(2) In other areas when the department determines a nuisance exists and should be controlled, and the control measures are practicable.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468A.025
Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-021-0055; DEQ 2-2001, f. & cert. ef 2-5-01

**340-208-0210**

**Requirements**

(1) When fugitive emissions escape from a building or equipment in such a manner and amount as to create a nuisance or to violate any regulation, the department may order the owner or operator to abate the nuisance or to bring the facility into compliance. In addition to other means of obtaining compliance the department may order that the building or equipment in which processing, handling and storage are done be tightly closed and ventilated in such a way that air contaminants are controlled or removed before being emitted to the open air.

(2) No person may cause or permit any materials to be handled, transported, or stored; or a building, its appurtenances, or a road to be used, constructed, altered, repaired or demolished; or any equipment to be operated, without taking reasonable precautions to prevent particulate matter from becoming airborne. Such reasonable precautions may include, but not be limited to the following:

(a) Use, where possible, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads or the clearing of land;

(b) Application of asphalt, oil, water, or other suitable chemicals on unpaved roads, materials stockpiles, and other surfaces which can create airborne dusts;

(c) Full or partial enclosure of materials stockpiles in cases where application of oil, water, or chemicals are not sufficient to prevent particulate matter from becoming airborne;

(d) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials;

(e) Adequate containment during sandblasting or other similar operations;

(f) Covering, at all times when in motion, open bodied trucks transporting materials likely to become airborne;

(g) The prompt removal from paved streets of earth or other material that does or may become airborne.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468A.025
Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-021-0060; DEQ 2-2001, f. & cert. ef 2-5-01

**Nuisance Control Requirements**

**340-208-0300**

**Nuisance Prohibited**

(1) No person may cause or allow air contaminants from any source subject to regulation by the department to cause a nuisance.

(2) Upon determining a nuisance may exist, the department will provide written notice to the person creating the suspected nuisance. The department will endeavor to resolve observed nuisances in keeping with the policy outlined in OAR 340-12-0026. If the department subsequently determines a nuisance exists under 340-208-0310 and proceeds with a formal enforcement action, pursuant to chapter 340 division 12, the first day for determining penalties will be no earlier than the date of this notice.

Stat. Auth.: ORS 468, ORS 468A.010 & ORS 468A.025
Stats. Implemented: ORS 468A.010 & ORS 468A.025
Hist.: DEQ 2-2001, f. & cert. ef. 2-5-01

**340-208-0310**

**Determining Whether A Nuisance Exists**

(1) In determining a nuisance, the department may consider factors including, but not limited to, the following:

(a) Frequency of the emission;

(b) Duration of the emission;

(c) Strength or intensity of the emissions, odors or other offending properties;

(d) Number of people impacted;

(e) The suitability of each party's use to the character of the locality in which it is conducted;

(f) Extent and character of the harm to complainants;

(g) The source's ability to prevent or avoid harm.

(2) Compliance with a Best Work Practices Agreement that identifies and abates a suspected nuisance constitutes compliance with OAR 340-208-0300 for the identified nuisance. For sources subject to 340-216-0020 or 340-218-0020, compliance with specific permit conditions that results in the abatement of a nuisance associated with an operation, process or other pollutant emitting activity constitutes compliance with 340-208-0300 for the identified nuisance. For purposes of this section, "permit condition" does not include the general condition prohibiting the creation of nuisances.

Stat. Auth.: ORS 468, ORS 468A.010 & ORS 468A.025
Stats. Implemented: ORS 468A.010 & ORS 468A.025
Hist.: DEQ 2-2001, f. & cert. ef. 2-5-01

**340-208-0320**

**Best Work Practices Agreement**

(1) A person may voluntarily enter into an agreement with the department to implement specific practices to abate the suspected nuisance. This agreement may be modified by mutual consent of both parties. This agreement will be an Order for the purposes of enforcement under OAR 340 division 12.

(2) For any source subject to OAR 340-216-0020 or 340-218-0020, the conditions outlined in the Best Work Practices Agreement will be incorporated into the permit at the next permit renewal or modification.

(3) This agreement will remain in effect unless or until the department provides written notification to the person subject to the agreement that:

(a) The agreement is superseded by conditions and requirements established later in a permit;

(b) The department determines the activities that were the subject of the agreement no longer occur; or

(c) The department determines that further reasonably available practices are necessary to abate the suspected nuisance.

(4) The agreement will include one or more specific practices to abate the suspected nuisance. The agreement may contain other requirements including, but not limited to:

(a) Monitoring and tracking the emission of air contaminants;

(b) Logging complaints and the source's response to the complaint;

(c) Conducting a study to propose further refinements to best work practices.

(5) The department will consult, as appropriate, with complainants with standing in the matter throughout the development, preparation, implementation, modification and evaluation of a Best Work Practices Agreement. The department will not require that complainants identify themselves to the source as part of the investigation and development of the Best Work Practices Agreement.

Stat. Auth.: ORS 468, ORS 468A.010 & ORS 468A.025
Stats. Implemented: ORS 468A.010 & ORS 468A.025
Hist.: DEQ 2-2001, f. & cert. ef. 2-5-01

**340-208-0400**

**Masking of Emissions**

No person may cause or permit the installation or use of any device or use of any means designed to mask the emission of an air contaminant that causes or is likely to cause detriment to health, safety, or welfare of any person or otherwise violate any other regulation or requirement.

Stat. Auth.: ORS 468; ORS 468A.010; and ORS 468A.025
Stats. Implemented: ORS 468A.010 and ORS 468A.025
Hist.: DEQ 2-2001, f. & cert. ef. 2-5-01

**340-208-0450**

**Particle Fallout Limitation**

No person may cause or permit the emission of particulate matter larger than 250 microns in size at sufficient duration or quantity as to create an observable deposition upon the real property of another person when notified by the department that the deposition exists and must be controlled.

Stat. Auth.: ORS 468, ORS 468A.010 & ORS 468A.025
Stats. Implemented: ORS 468A.010 & ORS 468A.025
Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-028-0080; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-030-0520; DEQ 2-2001, f. & cert. ef. 2-5-01, Renumbered from 340-208-0620

**Clackamas, Columbia, Multnomah, and Washington Counties**

**340-208-0500**

**Application**

OAR 340-208-0510 through 340-208-0610 apply in Clackamas, Columbia, Multnomah, and Washington Counties.

Stat. Auth.: ORS 468 & 468A
Stats. Implemented: ORS 468A.025
Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93, Renumbered from 340-028-0001; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-030-0400; DEQ 2-2001, f. & cert. ef. 2-5-01; DEQ 8-2007, f. & cert. ef. 11-8-07

**340-208-0510**

**Exclusions**

(1) The requirements contained in OAR 340-208-0510 through 340-208-0610 apply to all activities conducted in Clackamas, Columbia, Multnomah, and Washington Counties, other than those for which specific industrial standards have been adopted (divisions 230, 234, 236, and 238), and except for the reduction of animal matter, 340-236-0310(1) and (2).

(2) The requirements outlined in OAR 340-208-0510 through 340-208-0610 do not apply to activities related to a domestic residence of four or fewer family-living units.

Stat. Auth.: ORS 468 & 468A
Stats. Implemented: ORS 468A.025
Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93, Renumbered from 340-028-0003; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-030-0410; DEQ 2-2001, f. & cert. ef. 2-5-01; DEQ 8-2007, f. & cert. ef. 11-8-07

**340-208-0550**

**Odor Control Measures**

(1) Control apparatus and equipment, using the highest and best practicable treatment currently available, must be installed and operated to reduce to a minimum odor-bearing gases or odor-bearing particulate matter emitted into the atmosphere.

(2) Gas effluents from incineration operations and process after-burners installed under section (1) of this rule must be maintained at a temperature of 1,400° Fahrenheit for at least a 0.5 second residence time, or controlled in another manner determined by the department to be equally or more effective.

Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468A.025
Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-028-0045; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-030-0450; DEQ 2-2001, f. & cert. ef. 2-5-01

**340-208-0570**

**Ships**

While in those portions of the Willamette River and Columbia River that pass through or adjacent to Clackamas, Columbia, and Multnomah Counties, each ship is subject to the emission standards and rules for visible emissions and particulate matter size and must minimize soot emissions. The owner, operator or other responsible party must ensure that these standards and requirements are met.

Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468A.025
Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-028-0055; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-030-0470; DEQ 2-2001, f. & cert. ef. 2-5-01

**340-208-0590**

**Emission Standards -- General**

Compliance with any specific emission standard in this Division does not preclude required compliance with any other applicable emission standard or requirement contained in OAR Chapter 340.

Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468A.025
Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-028-0065; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-030-0490

**340-208-0600**

**Visible Air Contaminant Standards**

No person may allow any non-fuel-burning-equipment to discharge any air contaminant that is 20 percent opacity or greater into the atmosphere for a period of or periods totaling more than 30 seconds in any one hour.

Stat. Auth.: ORS 468 & ORS 468A.
Stats. Implemented: ORS 468.020 & ORS 468A.025.
Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-028-0070; DEQ 3-1996, f. & cert. ef. 1-29-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-030-0500; DEQ 2-2001, f. & cert. ef. 2-5-01

**340-208-0610**

**Particulate Matter Weight Standards**

Except for equipment burning natural gas and liquefied petroleum gas, the maximum allowable emission of particulate matter from any fuel burning equipment:

(1) Is a function of maximum heat input as determined from **Figure 1**, except that from existing fuel burning equipment utilizing wood residue, it is 0.2 grain, and from new fuel burning equipment utilizing wood residue, it is 0.1 grain per standard cubic foot of exhaust gas, corrected to 12 percent carbon dioxide;

(2) Must not exceed Smoke Spot #2 for distillate fuel and #4 for residual fuel, measured by ASTM D2156-65, "Standard Method for Test for Smoke Density of the Flue Gases from Distillate Fuels".

[ED. NOTE: Figures referenced in this rule are available from the agency.]

[Publications: Publications referenced in this rule are available from the agency.]

Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468.020 & ORS 468A.025
Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-028-0075; DEQ 3-1996, f. & cert. ef. 1-29-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-030-0510; DEQ 2-2001, f. & cert. ef. 2-5-01